REPORT

REGARDING THE POSSIBILITY OF INTRODUCING

LAND AND AGRICULTURAL BANKS

INTO THE

MADRAS PRESIDENCY.

VOLUME II.

MADRAS:
PRINTED BY THE SUPERINTENDENT, GOVERNMENT PRESS

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PREFACE.

The present volume, being the second of the Report on Land and Agricultural Banks ordered in G.O., No. 173, Public, dated 15th March 1892, requires few introductory remarks.

It consists almost entirely of a selection from the laws and articles of the several subjects touched upon in Volume I, viz., Land banks, Agricultural credit, Popular banks, Agricultural associations, Savings banks, and Madras Nidhis (Loan Funds), together with a miscellaneous chapter on various topics; an index has also been added.

It has been found impossible or unnecessary to translate and enter all that was noticed in the first volume, *e.g.*, German laws, each for separate land banks, with several hundred sections in each. So also the 'general law for societies,' as contained in the commercial codes of the several countries in Europe or of the various States of the United States of America, would require a volume to itself with extensive notes, and be but slightly useful, since the point insisted on in Volume I—see preface to Volume I, pages xi and xii,—was not the necessity for revising the company law of India, except as regards co-operative societies, but the necessity for devising a separate law to deal with rural banks, co-operative societies, and agricultural associations. Hence a mere reference to the general company law of Europe and the United States of America has been made, with a note of a small compendium found in a British blue book; Article I of Chapter XXXVII of the general laws of the State of New York (the Banking law of that State) has, however, been printed in Chapter VII, with a view to show the duties and powers of the Superintendent of Banks.

But the laws affecting various classes of banks, co-operative societies, and associations have been given with some fulness, as will be seen by the 'Table of Contents' for the several groups of subjects; the articles governing many classes of societies, either model or actual, have also been freely given. In the case both of laws and articles it has usually been found advisable to condense or excerpt, rather than to give the text complete, since many sections are either the result of the general laws, constitution, and customs of the several countries, or are of so ordinary a nature as not to require entry in a work which merely displays the various provisions of the law in order to supply hiatuses in Indian law, or to illustrate particular points, such as the amount and nature of State supervision, the gratuitousness of the services rendered by bank or society officers, the privileges—such as they are, outside of the special laws and State supervision—granted to societies, any special methods of internal supervision and audit as by the 'committee of supervision' or by the inspectors of unions of societies, the methods of financing societies and of grouping them in circles or unions, and so forth.

Considerable new matter has been added in this second volume to the chapter on 'Agricultural Associations' in the first volume. Not only have the articles of a variety of French associations been entered, but a wholly new section has been added on the Irish Agricultural Organization Society; the matter entered with regard to this society is of the highest interest, as it affords a peculiarly appropriate

exemplar for the Madras and perhaps other presidencies. The work described in that section is rapidly growing, the number of new co-operative societies and the development of the older ones showing constant and rapid progress; the figures given in the article are already out of date.

It is intended to issue shortly a brief study of the work of this organization society. Meanwhile the special attention of the reader is requested (1) to the necessity for dealing with associations rather than with isolated, unorganized peasant farmers if progress in any form is desired; on this point see especially page 185 of the present volume; (2) to the power of agricultural associations to develop credit annexes or separate credit associations, and, conversely, to the power of credit associations (village banks) to promote progress and co-operation in every branch of village life; De Laveleye considered that the rural popular banks of Italy in every case formed centres of economic progress, while the Raiffeisen and Wollemborg village banks are not only centres of economic but of mental and moral progress: see Volume I, pp. 4, 170, 218 *et passim*, and the introduction to Chapter IV of this volume.

It was intended to add a companion Prussian law to the French law on Land Improvement Associations, for the Prussian law of 1st April 1879 is the correlative of the above-mentioned Prussian law on Land Improvement Annuity banks (Landeskultur-Rentenbanken) and deals with associations—both free and compulsory as in France—for irrigation, drainage, water works, and navigable ways. This law, with its model articles, must wait a more convenient season for translation and comment.

In Chapter VII (Miscellaneous) will be found some interesting items, especially those on Usury laws, on commercial books, and on the duties of the Italian Minister of Agriculture, Trade and Industry. The latter subject is only treated with reference to the subject of credit and thrift, but the whole duties of this much-worked Minister are immense; for a mere abstract of these, see Commercial 12 of 1889, 24 of 1889 and 3 of 1894 (Parliamentary papers); in an Italian manual a similar list, with brief descriptions, occupies 25 pages, irrespective of examination programmes and a list of the laws dealing with the subjects.

In this connection, though not *strictly* within the province of this report on rural credit, reference may be made to the report and recommendations of the Irish Recess Committee of 1896, dealing with the agricultural and industrial condition of Ireland, and more especially to the appendix to the same containing, *inter alia*, a description of the Württemberg Bureau of Trade and Industry, headed for so many years by Dr. Von Steinbeis, and of its extraordinary results upon the industries of that kingdom. The report of the committee, which necessarily mentions rural credit as an essential in rural life, was issued after the completion of the present report and could not be utilized therein; a separate study will shortly be issued after a visit to Württemberg with a view to enquiry from an Indian standpoint.

The usury laws are examples of modern effort, in some of the foremost countries, to deal with this perplexing subject.

It is hoped that the index will prove full and useful.

The two volumes of this report are now complete, and are intended rather as a clearing of the ground and as a provision of material, than as formulating a cut-and-dry scheme, as indeed has been noted in the preface to Volume I, *ad finem*.

Still, a draft bill, not however in legal form, the necessity for treating the difficulty of rural credit by village banks, a specimen—not model—set of articles for such banks, and the suggestion for the creation of an organization society after the manner of the new Irish society, have been distinctly propounded; whether the scheme or any part of it will take hold of the public is a question to be determined by time, by the habits, hopes, and powers of the people, and by the energy, wisdom, and prescience displayed in any propaganda, official or demi-official, private or public, which may be started. The writer has been favoured with but few criticisms on Volume I, a matter for regret, because public interest cannot be aroused without discussion including the freest criticism of matters that appear undesirable or impossible; probably the review by the Board of Revenue and the orders of Government may arouse both criticism and practical effort.

Objection has been raised to the weight and size of Volume I—an objection which will probably be increased by the appearance of Volume II. It must, however, be remembered that a whole *series* of subjects, each of which fills many volumes in European literature, has been treated, and that it is a mere accident that the series appears under one cover, while the Madras section (Volume I, Part II) is but a brief analysis of much that, on a future occasion, may be dealt with in far greater detail—viz., the indebtedness and credit systems of the presidency—with a synthetical addition in the shape of a draft bill, specimen articles, &c. A mere analysis of the replies received to the *questionnaire* issued would be a respectable volume. However, it is hoped to issue shortly a pamphlet on the subject, simply, of village banks, and this may prove more attractive.

As mentioned on page 241 of Volume I, the subject of the indebtedness of the ryot is somewhat outside of the scope of this report, and the chapter on that subject (Volume I, Part II, Chapter II) is, consequently, imperfect; data are insufficient for an accurate and complete statement of the causes, whether ultimate or immediate, of indebtedness; for a fairly approximate estimate of the amount of indebtedness and of the ratio of the several classes of debt whether mortgage, chattel, or personal, in money or in kind; for a pronouncement as to the increase or decrease of the burden of debt whether absolute or relative to the increase of population and produce; for useful and practical deductions as to the results of such indebtedness on the condition and position, present or future, of the land-holding classes; and for proposals—apart from those for the encouragement of village or other banks—to meet the public and private, State and individual difficulties which the indebtedness of the ryots produces. An enquiry into agricultural indebtedness which should yield answers to the above and cognate questions would be one of serious labour, but is one which, in the opinion of the writer, is of the most immediate and radical importance in the domain of practical Indian economics and in State administration.

Objections have been raised to the elaborateness of the specimen village bank articles; they may be elaborate, but it was attempted to enter all that was advisable and perhaps necessary, and it is pretty certain that whether the articles of such banks are long or short, the directors will, whether without leave or by leave, have to act on very detailed rules. If articles are short, they may be intelligible, but the directors will be working without rule, or through bye-laws which, though useful and necessary, ought not to widen the articles.

It has been said that the ability of ryots to combine and to trust one another has not been dwelt upon. This is incorrect; the subject has been touched upon both

directly and by implication in paragraph 28 of the report and in the chapter—that on Madras Nidhis—on which that paragraph is based. A paragraph on page xi of the preface to Volume I, and paragraph 31, last sub-paragraph, of the report, also touch on this point which is more fully dealt with in several places on pages 373 to 375 of the appendix. Still, it is not pretended that village banks or co-operative societies could at once be a success; on the contrary, one great feature in Volume I is the suggestion of difficulty in initiation as shown by European history; it is only long-continued, energetic, public and private effort, that can bring about success. State assistance and privileges, strenuous private effort, the action of a central *organization* society or societies, have been expressly invoked; paragraphs 18, 31—34 and 38 of the report, and the appendix *passim*, both Parts I and II, deal with the work that has been necessary even in Europe, and that will be necessary in India before associations can become a success; *see* also the first section of Chapter IV in this volume, on the Irish Agricultural Organization society, for further remarks or suggestions. The writer would add his complete confidence in the Indian village ryot to combine in honest co-operation, *provided* that due attention is paid to the subject by the authorities and by the men of influence in the country, especially in the rural parts; this opinion is based not merely on the example of Europe, but on the history of the Indian village, on considerable experience of village life and work, and on the history of the Nidhis and Chit associations.

The writer's motto for the initiation of village banks continues to be "*Solvitur ambulando;*" great measures are always 'impossible' till they are found to be successful, and success depends upon incessant experiment, perseverance, and courage; the problem is insoluble till it is attacked in actual experiment.

CLIFTON,
28*th July* 1896.

F. A. NICHOLSON.

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CHAPTER I.—LAND BANKS.

STATUTE OF THE POMERANIAN MUTUAL LAND BANK (LANDSCHAFT.) *

Chapter I.—Debentures (Pfandbriefe) in general. †

1. Pomeranian debentures are engagements made against the mortgage issue of the bank. They are issued to bearer, not repayable on his demand (von diesem nicht kündbar) nor by the bank except in accordance with this statute, and are duly secured by the subsequent provisions.

2. They bear interest at 3½ to 4½ per cent. per annum payable half-yearly, while the mortgagors to the bank pay from 4 to 5 per cent., on their loans, the difference *plus*, if necessary, one-sixth of one per cent. paying the cost and risk of the administration. Further debentures may be issued at 3 per cent. upon mortgages at 3½ per cent.

3. Holders of debentures are paid by the bank only, and have no direct relations with the mortgagors.

The debentures are secured not only by the properties against the mortgages of which they are issued, but by all the mortgaged ‡ properties within the sphere of operations, against which they have all the claims which the bank has against its debtors; also by the own property of the bank.

All mortgages have the same privileges.

4. Loans may be granted (debentures may issue) up to two-thirds of the valuation of an estate.

5. Debentures may only issue as first mortgages.

6 A candidate for a loan must (in case of prior mortgages or charges) first prove the redemption of all prior claims, or obtain their cession to the bank, or procure the precedence of the bank in the registration books.

7. (Omitted).

Chapter II.—Property of which Loans may issue.

8. All properties of certain classes assessed to the land tax on a minimum *net* income of £75, or of other classes assessed on a similar income of £150, may obtain loans; also (certain other classes of properties if of 625 acres in extent or assessed to the land tax on a net income of £150).

9. (Omitted).

10. All buildings included in the valuation must be incurred in the society attached to the bank.

Chapter III.—The Royal Commissioner and the Bank Authorities.

11. Every matter relating to the maintenance of the bank's system and to the principles laid down in the present articles, is placed under the chief supervision (Oberaussicht) of the minister for agriculture, and under the special supervision of a Royal Commissioner, the appointment of whom is reserved to His Majesty.

12. The Royal Commissioner is at the head of all the authorities of the bank and moreover must see that at all times the articles and principles of the bank are carried out.

13. He presides over the general meeting and the permanent select committee without, however, having any vote at these meetings except in the cases mentioned in sections 116 and 135 (casting votes at both meetings). In his absence sections 116 and 127 apply. (The director-general of the Landschaft, or the oldest councillor present, presides in that case.)

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* This was founded in 1781 by special statue with the object "of granting long term and well secured real credit by the issue of land mortgage debentures (Pfandbriefe) on the mortgagable properties in Pomerania." This includes only the 'noble' and not the peasant properties.

Each of the old Landschaften is governed by a special statute passed for its formation: these were frequently revised as experience required. The statute here partly translated is that current in 1889 and is given as a specimen of the methods and privileges of these ancient land banks. The corresponding statute of a new Landschaft will also be given.

Only so much is translated or abstracted as seems of importance: the statute runs to 304 sections in immense detail, so that the statute forms at once the law, the articles, and the rules of business for the bank. Many of the sections are merely abstracted, some roughly translated, others translated in full. Some are omitted as being only of local application: *see* Vol. I, pp. 48-58 and 59-93, &c.

† The general German law of land mortgage debentures is, of course, not contained in this statute. But those institutions entitled to issue them are governed by similar provisions. For the sake of brevity they will hereinafter be mentioned simply as 'debentures.'

The Landschaft method of financing their loans is *simply* the issue of debentures: a loan is requested and sanctioned: debentures are then issued for the amount of the loan, which is then paid over to the borrower (either the debentures themselves or in cash); hence the common equivalent in the statute for the granting of a loan is that 'debentures may issue.' But the debentures are secured not by that particular mortgage merely, but by the whole mass of mortgages, and by the reserves, &c., of the bank: *see* Vol. I.

‡ Also in certain districts, by the non-mortgaged, but mortgagable (bepfandbriefungsfähigen) properties.

14. He is entitled at any time to call for a report and whenever he thinks necessary to order an audit of the cash and accounts, and to be present thereat.

15. The business of the bank is managed, under the Royal Commissioner·

(1) by the four District Boards and District Councils (Departments-Direktionen and Departments-Kollegien);
(2) by the general committee;
(3) by the select committee (vom engeren Ausschusse);
(4) by the general meeting.

All these authorities form public bodies with the rights mentioned in "the general law (Landrecht) sections 114, &c., of Part II, Chapter X." Documents issued within their spheres of operation have the status and validity of public documents. No suit lies against any decisions made according to the rules of their constitution. An appeal from the decisions of the district boards and councils lies to the general committee against whose decision a second appeal lies to the select committee, or, as the case may be, to the general meeting when the latter meets at a date earlier than the select committee.

* * * * *

* Chapter IV.—District Boards and Councils.

17. Deputies elected by the several circles (Kreis, taluk) in each district represent the district and, with the district board, from the district council.

18. The district board consists of a director, two councillors, and a syndic (standing counsel).

19. The director of the district board is elected by the proprietors of the several properties situated within the district and which may be or which are the subject of a loan with the bank; his appointment is subject to royal confirmation.

20. The person elected is bound to accept office unless he can give a valid excuse.†

21. An excuse to be valid must be such as would under the common law release a man from the duties of guardianship; he is also excused if he has already acted as officer of the bank for six years.

* * * * *

35. (Provides for his pay, and batta outside of his chief town.)

* * * * *

37. The two district councillors form with the director and the syndic (counsel), the district board, and are obliged to undertake any special duties with which they may be commissioned by the director in the interest of the district.

38. They are elected in the same way as the director, but the royal confirmation of their election is unnecessary.

39 to 57. (Recite the duties of the district board; *see* Vol. I, page 52; the following sections are of interest.)

* * * * *

43. For business outside of the chief town of the district and of their own town, councillors are entitled to daily batta and journey money, besides their fixed pay.

* * * * *

47. The district board must watch over the business management of any properties mortgaged to the bank (within their district) and must interpose in case of changes of management or disorders which may endanger the security of the bank.

* * * * *

49. Every member (*i.e.*, of the bank which is a mutual association), but especially the local deputy, is bound to report to the district board, should he notice in any mortgaged property, any irregular management or essential change in its working, or any important reduction of value. No notice is to be taken of anonymous or unauthenticated communications.

* * * * *

58. Every circle elects from among the proprietors possessed of votes resident within the circle and owning properties capable of being mortgaged or already mortgaged (to the bank), deputies and vice-deputies (*see* section 17 *supra*). Every such person is bound to accept office unless he can offer a valid excuse, as entered in section 21 *supra*.

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* Chapters IV to VIII inclusive recite in great detail the duties and powers of the four classe of authorities mentioned in section 15 *supra;* these are described with the sufficient fulness on pp. 51 and 52 of Vol. I. Only a few sections of special interest are here translated. All the authorities are required to take oath on assuming office; the offices are public, and cannot, save for certain reasons, be refused.

† The corresponding sections of the West Prussian Landschaft are as follows:—

Part II, 9. Every proprietor of an estate belonging to the Landschaft Association is bound to undertake the duties of a director, councillor or deputy should he be elected to that office.

10. The person elected can only decline office:—

(1) if he has already filled an office in the bank for full six years;
(2) if he has the actual management of a triple trust;
(not very clear: the German is "drei mit einer wirklichen Vermögens-Verwaltung verknüpfte Vormundschaften zu führen;")
(3) if he has passed his sixtieth year;
(4) if he fills a Government post.

59. The duties of the deputies are two-fold—

(1) as members of the district council in meeting;
(2) as its deputies in matters of supervision (section 49), of valuation of the management of attached properties, and in any matters concerning the interest of the bank with which they are commissioned by the district board.

* * * * *

65. The deputies receive for their presence at the two regular half-yearly meetings of the council a sum of £7–10–0 together with the costs of their journey.* They are also entitled to daily batta and journey money as in sections 35 and 43 *supra.*

66 to 69. (Relate to duties of the district council (*see* Vol. I, page. 52).)

70 to 75. (Relate to the duties of syndic or counsel who must have passed the examination required for that of pleader in a court.)

76 to 83. (Relate to the office staff and records.)

Chapter V.—General Committee.

84. At the head of the administration is placed the general committee consisting of the director-general, two councillors and the syndic general with their staff appointed with the sanction of the select committee.

85. The director-general and councillors are elected by the deputies of the four districts subject to His Majesty's confirmation.

86. (Only proprietors whose estates are mortgageable or mortgaged to the bank can be elected—the rules of section 36 apply to these officials.)

* * * * *

Chapter VI.—The Circle Meetings.

103. Every deputy (*see* section 58) summons as often as may be necessary and at least once a year on the invitation of the district board, all the qualified proprietors † of the circle, communicates to them whatever of interest has happened within the bank since the last circle meeting, lays before them the half-yearly accounts and the decisions of the select committee, mentions the valuations, grants, and redemptions of loans that have taken place in the district, and requests and notes their remarks on all affairs which require deliberation by the members in order to bring them to the district council.

104. For personal co-operation in these meetings and for the exercise of the power of voting, it is necessary for members—

(1) that they should be of thorough business capacity;
(2) that they should own an estate entered on the estate register (landschaftliche Matrikel).
(3) that they should be of unblemished reputation.‡ The circle meeting decides when necessary in matters relating to disqualification, with an appeal to the select committee.

* * * * *

108. At elections each member has but one vote, however, many properties he may hold in the same circle; on other occasions the holder of from 4 to 7 independent and qualified estates has two votes, the holder of 8 or more three.

* * * * *

112. Members who are in receipt of public poor-relief are not entitled either to be present at the meetings or to vote. The above rights are also refused to a bankrupt member.

Chapter VII.—The Select Committee. §

113. The select committee ordinarily meets once a year; each district sends a deputy and its director.

114. The deputies are bound to attend to the instructions which they have received, as opinions, but they are not bound by such instructions, nor responsible if they depart from them. They are unrestricted in their decisions and in their voting, and must vote according to their conscientious conviction for the interests of the bank.

As a rule the committee only decides finally upon matters laid before them by the district boards, and which pertain to the circle meetings (in matters of urgency this rule need not be observed, especially in matters of current business).

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* But for this salary they have also numerous other duties and responsibilities for which they are unpaid or draw only batta and travelling expenses, or, in the case of the management of attached properties, a small additional commission or stipend: *see* sections 59 and 181.

† It will be observed that not merely borrowers are summoned but all those who hold land of a certain status (noble) within the area of operation; the bank thus becomes a people's bank in a large sense of the word though confined to particular classes.

‡ This qualification—unbescholtener Ruf—is regularly found in the statutes or articles governing German societies, especially of the mutual type, whether they be Landschaften or Raiffeisen co-operative societies.

§ The general meeting, *i.e.*, the calling together of all the proprietors of a province, is costly and difficult; such meeting accordingly takes place but seldom; the select committee, therefore, to a great extent represents such general meeting.

115. The committee is the controlling authority over the general committee in the district board, considers and passes all the accounts and gives the final decision in disputed matters.

Deviations from or alterations of this statute and the imposition of new duties on the associates, cannot be determined or sanctioned by the committee but only by the general meeting.

116. The Royal Commissioner presides over the meetings of the committee with a casting vote in case of equality.

* * * * *

Chapter VIII.—The General Meeting.

(There is nothing of such special interest as to require translation.)

* * * * *

Chapter IX.—The Execution of the Bank's Orders.

137. Every member of the institution is bound to submit to the orders of the several departments of the bank which relate to the maintenance and execution of the provisions of the credit system.

138. The authorities of the bank are authorized to ensure the observance of their orders by the infliction of fines or by such other coercive means as are permissible by this statute. All the Courts are bound promptly and without objection to assist the bank upon their demand in such cases.

139. Should these means not induce the parties concerned to perform their duty, the district board is authorized with the consent of the general committee to demand the repayment of any loan (due by such member) and with this view, should threats be useless, may in the last resort, proceed to the forcible sale of the mortgaged property. The local Court must carry out such sale.

140. Should the accused be dissatisfied with such decree it is open to him to present his complaint to the select committee, or to the general meeting should the latter assemble earlier; their decision is final.

141. All members and officials of the several departments of the bank are bound to obey the orders of their superiors under pain of punishment by law.

Proprietors assembled at the circle meeting are bound to obey in all matters the provisions of this statute and the resolutions and orders of the superior authorities of the bank.

142. The owner of a mortgaged estate is bound to intimate to the district board the leasing of his estate within 14 days of such leasing and must send a certified copy of the lease deed, failing which his loan can be called in on three months' notice from the end of the half-year.

The district board is bound, should the security of the loan be endangered by such leasing, and especially by any alienation of the stock of the farm, to order the calling in of a suitable portion of the loan on at least three months' notice.

Chapter X on the valuation of properties, and Chapter XI on the issue of debentures and their interest coupons, do not appear to require translation.

Chapter XII.—The Payment of Interest on Loans from the Bank.

A.—Ordinary payments. (No matters of special interest.)

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B.—The collection of arrears from borrowers by coercive process.

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177. Since the interest on debentures must under all circumstances be punctually paid to the holders, it is necessary that the bank's debtors should strictly pay their dues on the fixed dates.

178. On the expiry of the dates fixed for the payment of the interest on debts, the cashier must prepare a list of arrears with the names of the properties, the amount of interest due, and the names of the proprietors, and send the same to the directors who will at once, should a special notice prove unavailing, charge the appointed bailiff * with the execution of the necessary coercive process.

The provisions of sections 46 and 47 of the General Law, Part I, Chapter XX, do not apply to the claims of the bank, namely, that the debtor can demand that the creditor shall first proceed against the estate.

The sale of the distrained property shall be carried out in public auction by the bailiff. With regard to the articles which constitute the stock of the farm (Guts-Inventarien-stücke), only such items may be sold as are superfluities (Super-Inventarien-stücke, *i.e.*, are not essential to the working of a farm). The directors will, when necessary in such cases, commission a councillor or deputy or other member, in conformity with the provisions of section 1715 (5), Civil Procedure Code, to examine on the spot what part of the stock can be conveniently dispensed with without detriment to the working of the farm.

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* Vollziehungsbeamten; it is not quite clear whether this bailiff is an officer of the bank or an officer of the Court; apparently the latter, since the rules of 1846 expressly enter the words 'of the Court.' Moreover section 138 requires that penalties inflicted by the bank authorities shall be executed by the Courts; in the case of other Landschaften (*see* translations, *infra*) the matter is made clear. The second and third paragraphs of the section show that the coercive process mentioned in the section relates only to the distraint of movables, which must always precede process against immovable property.

179. Should it appear that process against the debtor's movables will have no sufficient result under the circumstances of the case, the bank may desist from such process. The directors may in that case, as also when the sale of the distrained property fails to cover the arrears and cost, proceed against the estate itself.

180. Process against the estate is either by attachment and management, or by sale.

181. Should it be decided to attach and manage the estate the district board deputes a councillor or deputy with the aid of the syndic (counsel) or failing him of a Court officer, to initiate the attachment. The land registrar is also informed, so that the fact of the sequestration may be registered (over against the registration of the mortgage in the Grundbuch).

Either a councillor, deputy, or member of the bank shall be appointed as manager of the estate. He will draw an annual honorarium at the rate of two marks per thousand where the estate is valued at 75,000 marks or less, and at one mark for every one thousand in excess of such sum.* He will also draw journey money at 2½*d.* (20 pfennigs) per kilometre.

182 to 210. (Contain elaborate rules for the management of the estate.)

211. When after careful consideration the directors are of opinion that the above-mentioned methods will fail to produce the interest and other costs due to the bank, they are entitled, with the consent of the district board to proceed to the sale of the mortgaged property, and the Court having jurisdiction is bound, on request of the directors, to institute proceedings for such sale without previously taking cognizance of the matter (*i.e.*, without prior suit). The Court shall satisfy the claims of the bank from the proceeds of the sale, without requiring the bank to make any special proof of the correctness of its claims otherwise than by putting in a certified copy of the account showing the outstanding capital, interest, costs, and any charges for management.

The payment of the bank's claims may not be withheld by reason of any mere opposition by third parties interested in the estate. But such persons may bring a special plaint against the bank, if they consider that they can prove inaccuracy in the bank's claims.

These privileges are also applicable in the case where the sale of a mortgaged estate takes place on the motion of another creditor.

* * * * *

215. It is not necessary for the bank to come forward at any meeting of creditors (in bankruptcy of the bank's debtor), or to bear a portion of the common costs: on the contrary, it is entitled to the re-imbursement of its own charges for management of the estate, and to require such payment from the income of the property or from the proceeds of its sale.

216. Should the bank be obliged to buy in at auction any property in order to cover its claims, it shall for one year be freed from the payment of the stamp duty on the transaction. Should the property remain in possession of the bank beyond the first year, one-twelfth of the duty is chargeable, while after the thirtieth year, the full amount must be paid.

C.—The grant of time for payment.

217. If it be shown that a debtor of the bank has fallen into arrears through misfortune and not through any bad management on his part, the director of the district board may grant a reasonable delay.

218. The matter must be brought before the next meeting of the district board which will settle the period allowable.

219. At the end of such period the debtor must pay the arrears; failing such payment the bank must rigorously (mit aller Schärfe) proceed to recovery by coercive process.

D.—The payment of interest in arrears.

220. The own capital (section 295) of the bank is specially intended to provide, by way of advance, for any outstanding interest.†

Any arrears of interest due to the bank are charged with interest at 5 per cent., and such charge is made for the full quarter without regard to the actual date of the payment by the debtor of any amount advanced by the bank on account of such arrears. This rule holds good for all advances made by the bank.

The general committee of the bank may grant a reduction of such charge in particular cases of hardship brought to its notice by its several officers.

221. In case of any outstanding interest, the district board must take prompt measures to provide funds for the payment of the interest coupons, especially in cases where time has been granted to the bank's debtor.

222. Any person who makes any advance of funds to cover arrears of interest due by the bank's debtors, shall have the same rights (of recovery) as the bank, and if such advance shall not be repaid at due date the district board must, at his request and free of cost, carry out against the debtor such coercive process as they would be entitled to carry out for arrears due to the bank.

223. For such purpose the lender of the money must obtain from the directors an acknowledgment of his payment which shall contain a promise by the bank to proceed against the debtor by way of coercive process in case of arrears.

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* The smallness of the stipend s to be noted. It would be difficult in the Madras Presidency to get a bank director to manage an estate worth Rs. 50,000 for Rs. 100 per annum or Rs. 8-5-4 per month.

† *I.e.*, due by the debtors to the bank, and consequently by the bank to its debenture holders, since each debenture represents a debt or part of a debt to the bank.

224. To avoid any abuse of such privilege it shall hold good only for one half-year, at the end of which period the creditor must demand the issue of process by the bank or lose his preferential right.

* * * * *

Chapter XIII.—The Payment of Interest to the Holders of the Interest-coupons of Debentures.

234 to 242 have nothing of special interest except that section 236 provides that "no attachment of such interest at the office of the bank shall be valid." This is a general provision in the European Land banks, and will be found in the law governing the French 'Crédit Foncier'; it is, of course, intended thereby to obtain a large market for the debentures.

Chapters XIV, XV and XVI.

(Sections 243 to 294) provide rules in great detail for the redeeming and calling in of debentures, for their amortization, &c.

Chapter XVII.—The own funds * of the bank, and the management thereof.

295. The own capital of the bank is intended—
(1) to cover the costs necessary for the maintenance of the system;
(2) to advance (to holders of debentures) the interest in arrears (by the bank's debtors);
(3) to advance the costs of managing estates under attachment;
(4) to cover any losses.

STATUTE OF THE EAST PRUSSIAN LANDSCHAFT. (LAND BANK.) †

Debentures (Pfandbriefe).

* * * * *

5. The bank's debentures are debt-bonds issued by the bank against the mortgages held by it on properties mortgagable (section 23) to the bank.

The total amount of such issue shall at no time exceed the total value of the outstanding mortgages held by the bank.

All debentures are to bearer, and shall be governed by the rules of this statute.

The holders of debentures cannot claim (at will) the repayment of the value of their debentures, but the bank can call in and repay such debentures at any time upon six months' notice. ‡

6. (The interest is fixed at 3½ per cent. per annum, with leave to the general committee to issue at other rates from 3 to 4½ per cent.)

7. The interest payable by the bank's borrowers shall be the same as that payable by the bank on its debentures, and shall be paid half-yearly.

8. The bank must pay the interest on its debentures without delay or cost to the holders on presentation of the interest coupons. The debenture holders have no connection with the borrowers from the bank, to which alone the holders must look for the satisfaction of their claims.

9. Besides interest and sinking fund (section 178) the borrowers must pay to the bank the amount fixed by the general meeting for covering the costs of administration. Any changes in the rate of such contribution require royal confirmation.

10. The bank is authorized to collect all its legal claims from its mortgagors (debtors) without any Court proceedings and by the coercive processes allowed to it.

The coercive processes special to the bank are—
(1) the distraint of all movables including claims due (to the debtors) by their debtors;
(2) attachment of the estate;
(3) forced sale of the estate.

Distraint is made according to the rules for administrative coercive process. The general board is the authority for ordering and conducting coercive process.

11. The courts are bound to take into consideration the registered debt due to the bank when a property mortgaged to the bank forms an item in the schedule of a bankrupt's property, or is the

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* It will be remembered that these Landschaften have no capital in the ordinary sense of the word; the funds used are those drawn from the public by debentures, which are issued by the bank in representation of each loan as it is granted, and are based in their totality upon the whole mass of the mortgages held by the bank, and in the last resort (in some Landschaften) upon all the properties of certain classes of estate-holders within the sphere of operations. But for the purposes mentioned in section 295 some disposable capital was found necessary: this was at first provided by an advance of £30,000 by Frederick II at the commencement of the system (1781), from the one-sixth of one per cent. charged on the grant of a loan as commission for the very purpose of forming a fund, and from profits. As the bank is administered very economically, and as there are no dividends, the own funds are now considerable, and it is believed that the original State grant has been repaid.

† Extracts will be given from the statutes governing several other of the Landschaften to display the nature of their administration, and any differences in method which may be of interest.

The East Prussia Land bank was founded in 1788, for the benefit of 'Noble' properties only.

‡ That is, although all such debentures are repayable gradually and completely within a certain period under the operation of a sinking fund, the holder of any particular debenture cannot demand at pleasure such repayment: he must wait till it is drawn or till the bank calls it in. On the other hand the bank has the power of repaying any debenture at any time on notice.

As the debentures are excellent investments and are all issued to bearer, a holder in want of his money simply sells his debenture in the market.

object of coercive attachment or sale. The bank is entitled in cases where such property is under its management to be recouped as a first charge in the actual costs of such management and of any costs of restoration (to a good condition), as also in any arrears of interest, and to claim such dues in priority to other creditors out of the sale price. Only after the bank has been satisfied (in such matters) shall the surplus income or sale price be divided.*

12. (Debtors in arrears must pay at the rate of 5 per cent. per annum on all advances made by the bank to debenture holders and others, on account of such arrears. If such advances are borrowed by the bank, the debtor is bound by the terms agreed upon with the bank's creditor. In case of these advances the bank's debtor must give and register security to the amount of 0·5 per cent. of his original loan.)

13. The holder of a debenture is entitled to punctual payment of interest, and of the principal when the debenture is publicly drawn for payment.

14. Debenture holders have, as their security for the payment of interest and principal and of any other claims under this statute—

(*a*) the bank and all its funds, and, above all, the whole mass of mortgage claims held by the bank;

(*b*) the general guarantee of (1) all the properties mortgagable to the ban (alle bepfandbriefungsfähigen Landgüter) by the law of 1808 whether mortgaged or not, within its area of operation; (2) all other landed properties (*e.g.*, peasant (bäuerliche †) section 23 (*a*)) actually under mortgage to the bank; (3) all urban properties which by entry in the land register (Grundbuch) are subject to the general guarantee.

15. The registered mortgages held by the bank are exclusively assigned as security for the debentures, and can in no wise be made answerable for the dues payable to any other creditors of the bank.

16. All debentures have equal privileges.

17. Debentures against a specified property shall no longer be issued.‡

18. The total amount lent upon a property shall never exceed two-thirds of its value as appraised and determined.

19. Should a mortgaged property be split up or be so badly managed as to deteriorate, or suffer loss of its stock, or the dilapidation of its buildings, or be cleared of its timber, or should the buildings not be properly insured, the bank may either require the immediate repayment of a corresponding part of its loan, or may, on three months' notice, call in the whole loan and may, without preliminary proceedings, enforce its claims by attachment or sale. The bank may in case its security appears for any of the above reasons to be endangered, proceed without notice to attachment and management of the property.

(Other paragraphs provide for calling in part or the whole of the loan in case the property is entered in an association, even for land improvements, which is burdened with charges or demands which may endanger recovery of the bank's claims; also that the mortgagor shall inform the bank of any sale of its stock to a tenant, and, if necessary, shall give security. In case of receiving no such notice the bank may proceed as in paragraph 1.)

20. The bank is entitled to inspect the registration books and land records relating to properties within its area of operations and to take extracts therefrom *gratis*; it is also entitled to demand simple or certified copies.

21. The mortgages must not be preceded in the registration books by any prior mortgage or other obligation which would lessen the interest of the bank in the property or in its proceeds.

The candidate for a loan must prove that prior mortgages have been redeemed, or must obtain the cession of such mortgages to the bank, or must arrange that the bank shall have priority over all other registered entries, before debentures can be issued.§

Persons and properties admissible to loans.

* * * * *

23. Loans may be granted on the following properties:—

(*a*) all properties within the area of operation, including royal domains and forests, bearing an estimated value of at least £75. Properties defined in section 14 *b*. (2), (*i.e.*, peasant properties) must be possessed in full ownership without incidental servitudes (*i.e.*, apparently, without owing any feudal dues or duties to over-lords);

(*b*) (certain urban properties with buildings of the value of at least £750);

(*c*) (certain other urban properties worth at least £75).

All proprietors of the class mentioned in section 14 *b*. (2) (peasant), who obtain credit from the bank, are subject without further or express declaration, to the conditions of the statute, and are charged with the guarantee mentioned in section 14.

* * * * *

* It will be remembered that the statutes of these banks absolutely forbid the bank to lend except on first mortgages. Hence any sale, &c., of the property by any other creditors is subject to the bank's claim as first mortgagee. The present section merely provides, therefore, for the recoupment to the bank of its incidental charges and advances not forming part of the principal debt.

† The acceptance of peasant, *i.e.*, non-noble properties as mortgagable, is of comparatively recent introduction.

‡ This marks the great change in the land bank system. The bank was at first a mere intermediary between a creditor and a particular debtor; the debentures were issued against and actually specified particular properties and loans, and the unpaid creditor had his claim against such property. Subsequently the bank became a genuine credit bank, issuing debentures merely against the mass of its mortgages and other assets, and excluding any direct connection between a debenture holder and a particular debtor.

§ *I.e.*, before the loan can be granted, since the issue of debentures and the grant of a loan are simultaneous or co-related acts; the one is impossible without the other.

The officials of the bank.

31. The business of the bank shall be carried out under the general supervision of a Royal Commissioner as president of the bank and according to the resolutions and under the control of the general meeting as elected by the circle meetings, through—
(1) the general board;
(2) the valuation committee;
(3) the full committee (Plenar-Kollegium); *
(4) the audit committee.

* * * * *

33. All officials of the bank are indirect public officials. They must take oath on appointment.

* * * * *

37. A commissioner or president appointed by His Majesty shall be placed at the head of the bank; his special care shall be that the foundation principles of the system shall be strictly observed by all concerned, and that not the least infraction of duty towards the King and the constitution of the country shall be admitted.

He is also entitled to preside, when he thinks necessary, at all the bank's meetings and committees without exception, and to expect and demand detailed reports. This right especially belongs to him with reference to the general meeting and the general board. He is also especially entitled, whenever he thinks necessary, to institute examinations of the cash and audit of the accounts, and he must particularly see that proper regulations are issued and obeyed by all the departments of the bank.

38. The departmental authorities of the bank are public departments with the rights mentioned in the general law, section 114 ff, Part II, Chapter X.

All documents issued in their official capacity have the *status* of public documents. No suit lies (findet der Rechtsweg uicht statt) against resolutions issued in their official capacity.†

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The Audit Committee.

89. This committee consists of three members and as many deputies who shall be appointed for three years by the ordinary general meeting.

90. Its duty is the annual final revision of the whole of the bank's accounts, including the audit of the bank's work for the year which is to be made before the ordinary general meeting. The committee meets once a year, as soon as the settlement of accounts for the past business year has been completed by the office. The accounts must be placed in complete condition for audit with all vouchers and notes.

* * * * *

92. The committee submits the results of its revision to the president by whom it is transferred to the general board.

* * * * *

The enforcing of the bank's orders.

107. Every proprietor of an estate belonging to the credit association is bound to submit to all such orders of the several departments of the bank as relate to the due maintenance and execution of the provisions of this statute, especially as regards orders of the general board to undertake enquiry into estates which have deteriorated, and the representation of circle deputies when they are prevented from making valuations of properties.

This rule is applicable also to the occupants of mortgaged estates and to tenants of the same especially to lessees under the circumstances mentioned in sections 164 and 165 (relating to the leasing of estates under attachment).

108. The authorities of the bank are entitled to enforce obedience to their orders by fines which they may themselves impose and which they may collect by coercive process without the intervention of a Court, or by such other coercive means including the attachment of estates, as may seem good to them.

All Courts are bound promptly and without objection to assist the bank in such cases.

109. Should these means not succeed in inducing the parties concerned to do their duty, the general board is entitled to demand repayment by them of their loans and for this purpose, should threats prove unavailing, to proceed in the last resort to the forcible sale of the mortgaged property. Such sale must be carried out by the Court having jurisdiction without previous enquiry.

110. Should the offender be dissatisfied with the action of the general board (sections 108 and 109) he can make a complaint to the general meeting the decision of which shall be final.

On complaint being made execution of the penalty shall be postponed unless such penalty be a mere fine.

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* The Plenar-Kollegium is similar in formation and duties to the 'select committee' of the Pomeranian bank.

† Presumably this privilege extends merely to resolutions affecting the internal relation of the bank with its members and borrowers; such resolutions could not affect third parties or the external relations of the bank.

*The Collection of outstanding Interest.**

149. On the expiry of the date fixed for payment of interest, a list of arrears shall be drawn up in full detail and a notice shall be sent direct to the debtor that coercive process will issue.

150. On the expiry of the time mentioned in the notice, the general board will proceed to coercion at first against the movable property of the debtor.

The debtor cannot in such raise the objection that the creditor must first seek his remedy against the estate.

Only such articles of the stock of the estate shall be sold as are not necessary (entbehrliche) for its working.

151. Should the proceeds of the distrained property not cover the arrears with the cost of distraint or should the general board consider it advisable with reference to the amount of arrears or other circumstances to abstain from distraint proceedings may be taken for the attachment or sale of the estate.

152. Should the board decide to attach the estate it must, as a rule, appoint for that duty the councillor in whose circle the estate is situated; in exceptional circumstances another councillor or a circle deputy may be appointed.

One of the bank's legal advisers (syndic) or in his absence a judge (Königlicher Richter) must always assist at such attachment.

* * * * *

168. (3) The Courts are bound, on the request of the general board, to proceed to sell an estate without previous enquiry.

STATUTE OF THE NEW WEST PRUSSIAN LANDSCHAFT.†

1. A credit institution entitled 'The New West Prussian Landschaft,' is hereby established for the proprietors of estates excluded from the 'West Prussian Landschaft Association' in the districts of Marienwerder and Danzig.

It shall be represented and managed by the general board of the West Prussian Landschaft, with the proviso that such relationship may be dissolved.

Loans.

2. The bank will grant mortgage loans to such of the above landholders as enter the association. Funds for such purpose will be found by the issue of debentures called 'New West Prussian Debentures'; these shall be made out to bearer and shall carry an annual interest of 4 or 4½ per cent.

3. For entry to the association and for the receipt of loans only such estates† are admissible as—
   (*a*) do not belong to the West Prussian Landschaft Association;
   (*b*) are held in full ownership;
   (*c*) are worth, upon valuation by the bank, at least £225;
   (*d*) and (*e*) (relate to peculiarities of German land tenure).

* * * * *

5. Loans may not exceed in amount half the estimated value of the property.

* * * * *

8. A borrower must undertake the following obligations—
   (*a*) to pay, in two half-yearly instalments, an annuity of 4¾ or 5¼ per cent. according as the debentures (representing the loan) were issued at 4 or 4½ per cent.;
   (*b*) to pay towards a working capital (section 27) 1 per cent. on the loan amount at the issue of the debentures;
   (*c*) to repay the loan principal, in whole or in part, upon six months' notice in the cases mentioned in section 15 *infra;*
   (*d*) in case of arrears to pay, as penal interest, 5 per cent. upon such arrears, for the quarter in which the payment fell due;
   (*e*) especially to submit to the conditions of this statute.

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* The corresponding articles of the Old West Prussian Landschaft are as follows:—

66. When the due date for the payment of interest is passed, the cashier must draw up a list of arrears and place it before the board.

67. Arrears of interest which only amount to £30 or less shall be collected by immediate distraint of the debtor's movables.

For such distraint the bank authorities may either use their own bailiff, or may request the Court having jurisdiction to make the distraint, and the Court is bound to comply with such request.

68. Arrears of interest of more than £30 must (müssen) be collected by attachment of the property. But the board may, in the case of small arrears (*i.e.*, more than £30 but not very considerable), forego such attachment when they think proper.

Section 81 provides that if, at the auction of a property for arrears, the bids offered are insufficient, the bank with the consent of the general board and of the Royal Commissioner, may buy in the estate, but in such case, must re-sell it as soon as possible and at longest within three years.

† This is one of the New Landschaften (*See* Vol. I, pp. 56—58) and was founded in 1861 with the view of extending a more general land credit than that granted by the Old Landschaften, the operations of which were, in general, confined to 'noble' properties. It is a mere annex of the Old West Prussian Landschaft; such union however may be dissolved.

† Grundstücke = estates. It is peculiar to these German land banks that it is the character and status of the estate that regulate the capacity for loans, &c., not the status of the holder; or rather, the holder of an estate derives his right to enter an association and obtain a loan, from the status, noble or peasant, of his estate.

12. The annuity shall be alloted as follows:—

(a) 4 or, as the case may be, 4½ per cent. as interest upon the debentures;
(b) ½ per cent. to the accumulation of the insurance and sinking fund respectively [eines Sicherheits und resp. Amortisations-(Tilgungs-) Fonds];
(c) ¼ per cent. for the defrayal of the charges of administration.*

* * * * *

14. The bank shall, upon the occurrence of arrears, issue its demand for such arrears and for the penal interest due thereon, and shall subsequently proceed against the movables of the debtor, or to the attachment and sale of the land by the Courts having jurisdiction.

The debtor cannot demand that the bank shall in the first place proceed against the estate, nor can he object to the simultaneous carrying out of the attachment and sale of the estate; still less can he claim any delay.

At the auction of an estate the bank can, for the avoidance of any loss, itself buy it in without special authority from Government; in each case, however, it must re-sell the estate within three years.

15. The bank has the right of requiring the repayment of its loan at six months' notice—

(a) when the mortgaged estate shall have so decreased in value that it is no longer worth £225; partial repayments may be demanded in the case of other diminutions in value;
(b) when the proprietor fails to make his bounden payments to the bank punctually; this right ceases when the arrears and all costs are paid up;
(c) when the proprietor is unable to prove that he has regularly paid the public dues upon his estate;
(d) when the estate comes under attachment or public sale—(Subhastation);
(e) when the proprietor manages his estate so badly that, on the examination of two commissioners, a serious deterioration of the estate and a danger to the bank's security are evident, and the proprietor fails to remedy the defects found according to the orders of the directors and within an appointed time;
(f) when the borrower fails according to the condition of section 11 to insure his buildings, stock and stores against fire;
(g) when the borrower does not meet his obligations in the matter of his loan contract as mentioned in section 8;
(h) when he refuses to undertake the office of bank commissioner upon due election or nomination unless he has already served as such.

16. Properties under mortgage are subject to the inspection of the bank commissioners of the circle in so far as there may appear acts or omissions or other circumstances which may endanger the security of the loans or of the interest thereon.

* * * * *

The Funds of the Bank and their Management.

27. *Working Capital.*—The working capital (Betriebsfonds) † shall be accumulated from the 1 per cent. deduction made from all loans at the time of issue as provided in section 8-*b*. This capital is the property of the bank, and shall furnish funds for unavoidable outlays (not otherwise provided for). The select committee is especially charged with the employment of this fund.

28. *Insurance Fund.*—The insurance (guarantee) fund (Sicherheitsfonds) is accumulated—

(a) from 0·75 (drei viertel) per cent. which the borrowers pay in excess of the interest due to the debenture holders, and 0·25 per cent. as costs of administration, for seven years from the grant of the loan; ‡
(b) from the penal interest on arrears;
(c) from the proceeds of expired (unclaimed) interest coupons;
(d) from any extraordinary receipts;
(e) from interest on the fund itself.

29. The insurance (guarantee) fund is formed to cover any losses of capital or interest which are not covered by the share of the proprietor of the estate in question (which has caused the loss) in the sinking fund (Tilgungsfonds).

It is the own property of the association, and outgoing members are not entitled to any repayment of any portion thereof.

30. *Sinking Fund.*—The sinking funds (Tilgungsfonds) is accumulated from the proceeds of the annual 0·75 per cent. mentioned in section 28 (*a*), which the borrowers pay to such fund after the expiry of seven years from the grant of the loan,§ together with the interest accruing on the fund.

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* It will be noticed that these banks are managed most economically, and therefore with the least possible cost to the borrower. An annual charge of 0·25 per cent. on the loan, and a lump payment (8 (*b*)) of 1 per cent. at the issue of the loan, suffices for the whole cost of administration, and for the accumulation of a small cash capital for immediate and current expenses. It is the absence of a share capital with dividends, and the adoption of the mutual principle, together with the enforced and but slightly paid for services of the various members, that bring about the result.

† This is not a working capital in the sense of a capital by which the business of a bank is carried on or loans granted, but merely a fund from which cash expenses, salaries, &c., are provided.

‡ This point is not quite clear, for in sections 8 and 12 *supra* the contribution to the insurance and subsequently to the sinking fund, is mentioned as 0·5 per cent. with 0·25 per cent. for the costs of management; *total* 0·75 per cent.

§ *See* Vol. I, pp. 56–58 (New Landschaften). It is usual or common for a bank to demand that 0·5 per cent. or other amount be paid to the guarantee fund for the first few years after a loan is granted; after that period the contribution goes to the sinking fund, and amortizes the debt in a given period, usually about 50 years. But it is also necessary that the insurance fund or reserve shall first reach the amount of (say) 5 per cent. of the outstanding debenture debt.

This fund is the property of the owners of the mortgaged estates, and (so far as the contributions of such estates are concerned) is, *de jure* an appurtenance of the estates.

* * * * *

Management of the Bank.

40. (This section provides that the statute and working rules of the West Prussian Landschaft shall serve for the new bank except in so far as the present statute alters them.

1. Appendix No. II to the statute provides rules for the issue of series No. II of debentures. Rule 1 is similar to section 12 of the statute, but subsequent royal ordinances permit the issue of debentures at 3 and 3½ per cent.

2. The insurance (guarantee) fund is placed under the conditions of section 29 of the statute. It is composed from the following contributions:—

(*a*) 0·5 per cent. annually, as mentioned in rule 1, until the fund reaches 5 per cent. of the debentures issued to the respective borrowers*;
(*b*) half of such interest on debentures as has not been claimed within four years;
(*c*) penal interest on arrears;
(*d*) all extraordinary receipts.

3. The 0·5 per cent. above mentioned as part of the annuity shall be credited to the sinking fund and ledgered against each borrower, as soon as it is no longer required for the insurance fund.

* * * * *

5. The holder of debentures of series II has the right—
(*a*) to the punctual payment of his interest;
(*b*) to the payment of his principal in cash when publicly drawn.

Should the bank fail to satisfy his claims he is entitled to seek satisfaction by the ordinary legal methods against the bank—
(*a*) first of all from the insurance (guarantee) fund;
(*b*) next from those mortgages against which the bank has issued debentures;
(*c*) subsidiarily from the sinking fund with reference to the debentures of series II issued against particular estates.

So long as the insurance fund shall not have reached the amount of 5 per cent. of the pending debentures, the debenture holder has further the right to seek satisfaction—
(*d*) from the old insurance fund but without prejudice to the rights already acquired therein by holders of debentures of the first series.

The valuation rules of this association are particularly minute, and too lengthy for translation here, while their chief interest would be the secondary one of showing the very moderate amount of loan obtainable per acre, and the extreme care with which the bank safeguards its loans, by demanding the most scrupulously minute enquiries; the inability of such banks to reach the small peasant is fully accounted for by the necessity—gained from experience—for such rules.

STATUTE OF THE CENTRAL LANDSCHAFT (LAND BANK) FOR THE PRUSSIAN STATES.†

1. The undermentioned credit institutions (Landschaften) of Prussia (here follow the names of nine Landschaften) establish, under the conditions of the present statute, an association for improving the credit granted to proprietors, especially by means of a mutual issue of central debentures, to be negotiated in the general market.

Other Prussian Provincial Credit Institutions may be admitted to the association under the rules of the present statute and with the consent of the adherent institutions.

2. The association will take the name of the 'Central Landschaft (Land bank) for the Prussian States, and will be located in Berlin, with the rights of a corporate body.'

3. The business of the bank shall be managed by a central board which will represent the bank and will consist of one member from the highest administrative body of each of the adherent banks, who will be elected by such body as their representative.

The central board will meet, whenever necessary, and at least once in a year; it will frame its own business rules.

4. (The several provincial banks will arrange matters for the benefit of themselves and their clients, except in matters which concern the direct working of the central bank). The central board will regulate all details under a set of business regulations which will be framed in communication with the several boards of the affiliated banks.

The managing bodies of the several affiliated banks are bound to respond to the demands of the central board.

5. The Minister for provincial affairs is bound, as royal commissioner, to supervise (control) the execution of the present statute.

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* The insurance fund is apparently not a general fund held in lump, but a fund containing as many divisions as there are loans; each loan is separately ledgered and the contribution of 0·5 per cent. made by each borrower is then credited to him on his ledger page, together with his share of the other assets of the fund, and when the total of such credits reaches 5 per cent. of his debt, it is considered that he has sufficiently secured the bank against loss on his account, and the 0·5 per cent. is then diverted to its proper reservoir, viz., the sinking fund, by which his debt is gradually amortized.

† *See* p. 57 of Vol. I. The bank was established by the decree of 21st May 1873.

6 and 7. (Temporary arrangements for the commencement of work).

8. The central bank will issue 4 per cent. debentures to bearer, with the appellation of 'Landschaft central debentures'; they shall not be repayable on demand by the holder (unkündbar sind).

These central debentures are intended to provide funds for the mortgage loans granted by the provincial land banks on the properties within their respective areas and limits of business.

9. Properties must be valued prior to the issue of debentures (*i.e.*, before the grant of a loan thereon).

Such valuations to be made upon the valuation principles of the respective banks and to be carried out by their officers. But it is permissible to grant loans without such valuation upon a consideration of the net income as fixed for the purposes of the land-tax, viz., within 50 times the amount of such tax as finally assessed, and after deduction of all taxes, cesses and charges (Dienstbarkeit, servitudes, corvées, &c.) *

10. The proportion of the valuation amount which may be granted on loan shall follow entirely the rules of the respective banks.

11. Changes in the valuation principles and loan limits of the several affiliated banks require the consent of the board of the central bank in so far as loans are to be made by the issue of central debentures. But in no case shall the loans exceed the proportion of two-thirds of the estimated value.

12. The borrower must execute a mortgage to the provincial bank for the security of its claims and for the execution of the obligations mentioned in section 16 *infra:* he must also fully submit to the provisions of this statute, and must effect the necessary registration in the land register.

The issue of central debentures will follow, as a loan to the bank which has forwarded and assigned to the central bank, the documents necessary by the conditions of paragraph 1.

13. For every loan granted and registered as per section 12 an equivalent amount of central debentures shall be issued.

14. The loan amount shall be issued through the provincial bank, either in cash or in central debentures at their face value, according as the central board shall decide. In the latter case the central board is authorized to buy in (from the borrower) the debentures at a price previously agreed upon, or to sell the debentures itself on account of the borrower.

The central board shall also determine when to issue the loan in cash at the face value of the debentures, should such debentures be quoted at a premium. In such cases the premium shall be credited to the bank.

15. When the central debentures are below par the provincial bank authorities may, should they so decide and upon the request of the borrower, grant from their own funds the difference between the par and actual value of the debentures as an additional cash loan, bearing interest, &c., under the provisions of sections 16, 17, 28 and 29 *infra.*

The same faculty is granted to the central board in regard to the grant of similar advances from the funds of the central bank. In such cases the provincial bank must execute a bond to the central bank for the repayment of such advances according to sections 16, 27, 28 and 29 *infra.*

16. The annuity for the repayment of the loan shall be settled according to the provisions of the present statute, and the constitution of the respective affiliated banks.

In all cases at least 0·5 per cent. annually must be paid upon central debentures as sinking fund, or such higher rate as may be necessary according to the constitution of the respective provincial banks.

The provincial banks are entitled in special cases to agree upon higher and extraordinary rates of amortization.

In cases where cash supplements have been issued under section 15, the borrower must pay at least 0·5 per cent. in addition for the amortization of the special debt. (Higher rates may also be demanded for the same).

17. (Omitted: relates merely to advances upon pledge of valuable securities, and mortgages, &c.)

18. The debt-claims registered in favour of provincial banks under section 12 shall be exclusively assigned to the central bank for the security of holders of central debentures, and other creditors shall in no way have any charge upon them.

19. Central debentures shall be issued by consecutive numbers for sums of from £7–10–0 to £500 (in seven values), and the central board may sanction other values. They shall be signed for the central board by such member of the same as represents the bank on the request of which they were issued, and authenticated by the counsel (Syndic) of the central board.

(Various other minor provisions are also entered for the due and formal issue of the debentures: they do not seem to need translation.)

20. (The debentures to be provided with interest coupons for 10 years, payable half-yearly, and with a voucher (talon) for the issue, to the person presenting such voucher, of a new set of coupons on the expiry of the first 10 years. If any objection is raised by a third party to such new issue the holder of the voucher must execute to the bank an indemnity bond.)

21. (Debentures may be issued with a true translation in foreign languages, the values being expressed in German as well as in foreign currency.)

22. The holder of a debenture will be entitled to demand—

(1) the payment of the interest at due dates;

(2) the payment of his capital when the debenture is publicly announced for payment.

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* The references in this section to the laws bearing on the subject of the land tax are : (1) Section 1 of the law of 6th March 1868 (General collection (Gesetz Sammlung), p. 206); (2) Law of 21st May 1861 (General collection, 253); (3) Regulations of 12th December 1864 (General collection, 673 and 683); (4) Law of 8th February 1867 (General collection, 185).

In case default should be made he is entitled to proceed at law against the bank and to demand a judicial allotment of his dues—

(*a*) from the funds of the provincial bank on the request of which the debentures in question were issued and which has undertaken the specific obligation for them, in so far as such funds are not pledged for any older and well-founded claims of third parties ; or

(*b*) from the actual mortgages which were the foundation of the loans on which the central debentures were issued ; or

(*c*) from *pro ratâ* contributions made *ad hoc* from the proprietors of all estates on which central debentures have been issued ; the final security for the holders of central debentures is, as a general guarantee, the total assets of the sinking funds under accumulation by the central association for the various properties.

The holders of central debentures cannot demand (at pleasure) the repayment of their capital.

23. The payment of interest upon the coupons will take place on fixed dates, at the offices of the several affiliated banks and at such other places, whether at home or abroad, as may be settled by the central board.

Interest (unclaimed) lapses to the bank at the end of four years from the 31st December of the year in which the said interest fell due.

But the bank may pay the value of any coupons to such person as shall, before the expiry of the four years' limitation period, notify to the bank the loss of such coupons, and shall prove his property therein by production of the debenture or by other satisfactory means; such payment shall take place at the end of the four years if within such period the missing coupons are not forthcoming.

24. (Transfer, &c., of debentures follow the provisions of the general law relating to paper payable to bearer.)

25. (Deals with the issue of fresh debentures in place of spoilt ones.)

26. The amortization of debenture debts contracted according to the provisions of this statute, is effected at the bank through which the loan was issued and according to the statute governing such bank, regard being had to the rules in section 16, &c., *supra*.

27. Should the difference between the market and par value of central debentures issued for a loan, be made up by the bank by means of a cash supplement (section 15) for which the mortgaged property is charged (section 12), the whole sinking fund contributions payable by section 16 *supra* for such property, shall be credited at interest to a special adjustment account, to be maintained by the respective banks, until such cash supplement with interest shall have been fully paid up.

28. The sinking fund contributions payable by sections 16, 26 and 27 shall be used and applied according to the provisions of section 35 *infra*.

As soon as at least 10 per cent. of the amount due upon the mortgaged estate shall have been accumulated to credit of the sinking fund, the borrower may demand that an equivalent amount of the debt shall be cancelled, provided that any cash supplement issued under section 15 shall have been repaid.

29. Every owner of a mortgaged estate is entitled to make, in accordance with the statutory rules of the bank which granted the loan, such extra payments as he pleases towards or in completion of the amortization of his loan.

He is also entitled to settle his debt, so far as it is not covered by the sinking fund, by payments in cash, or by the tender of central debentures at their face value with all unpaid interest coupons thereto belonging.

30. The share of a debtor in the sinking fund passes with the property of the estate under mortgage as an inalienable appurtenance thereto to any new owner. It can never be separated from the estate, or otherwise disposed of by the estate owner. Nor can such share be made liable for the claims of a third person, nor can it be made the subject of attachment on a decree of Court, or assigned to any third person. This section shall be read subject to the provisions of section 22, paragraph 3.

31. A borrower who, by the rules of his provincial bank, is entitled to a proportionate cancelment of so much of his debt as he has paid up, or to a new loan (for a similar amount), the priority of the balance of the original loan being, however, maintained, is similarly entitled in the matter of central bank loans.

32. Cancelment or other such arrangement in the matter of a loan, can only be effected on the cancelment (Kassirung) of a corresponding value in central debentures.

33. The central board shall determine whether and under what circumstances debentures may be called in for cash payment.

Such recall of debentures must be effected under the provisions of the State decree of 20th January 1870 and its appendix (General collection, page 70).

34. Debentures withdrawn from circulation shall be cancelled together with their interest coupons and voucher (Talon = voucher for the issue of fresh coupons) in the presence of a member of the central board, &c., and struck off the debenture register.

35. The funds of the central bank shall consist of the following:—

(1) Any premium (Kursgewinn) and debentures issued (section 14);

(2) Time-barred interest (section 23);

(3) The value of any debentures, duly recalled for payment but unclaimed for 30 years, as per State decree of 20th January 1870 (G. C. P., 70);

(4) Deposits, advances or loans made to the central bank by the affiliated banks or otherwise;

(5) Any profits made by the bank.

The central board must, in the interests of the bank and of real credit, take every care that the bank funds and the sinking fund shall be suitably utilized and invested at interest, either as provided

in section 15 (2) and 17 (5), or by purchase of central debentures or debentures of any affiliated bank, or in paper of or guaranteed by the State.

36. A half-yearly settlement of accounts as between the central bank and each of the affiliated banks shall be effected by the central board.

37. A central commission to which the general meeting or the select committee,—if so empowered by the general meeting—, of each affiliated bank must elect a member, will accept such accounts (ertheilt die Decharge) after due audit and verification.

The ceutral board will issue a report on the above together with a clear extract from the accounts (for incorporation) with the annual administration report of each affiliated bank.

38. The result of the settlement of accounts, together with an annual certified statement must be sent to the royal commissioner (in proof), that the total value of debentures in circulation does not exceed the total value of outstanding mortgages on which debentures have been issued under section 12.

39. All the provisions and dispositions of the several affiliated banks remain in full force as regards loans in central debentures and estates on the mortgage of which central debentures have issued, so far as they are compatible with the present statute. Any doubtful matters will be decided by the central board, proceedings in the Courts being excluded.

40. Similarly the affiliated banks shall be entitled to issue, without alteration, their own debentures according to their own statutes, and borrowers shall be at liberty to choose whether debentures of the bank within the business limits of which their estates are situated, or whether central debentures, shall be issued for their loans.

41. (Relates to the issue of central bank debentures in place of provincial bank paper.)

42. Upon the complete amortization of a loan upon which central debentures have been issued, and of any supplement (section 15) paid to the borrower, the estate under mortgage shall be freed from all obligations towards the central bank.

43. Should the interest of real credit appear to require it, the business area of the central bank may, with the consent of the affiliated banks, and, so far as may be necessary, that of the State, be extended to such degree as may seem needful.

44. Every affiliated bank may withdraw from the central association upon a resolution to that effect by the bodies entitled thereto by the constitution of the bank; such withdrawal is, however, only permissible after the withdrawing bank has fulfilled all its engagements with the central bank, and has produced for cancelment all the central debentures issued on its account.

Every affiliated bank can, in preparation for such withdrawal, require that the issue of central debentures on account of proprietors within the business area of such affiliated bank shall cease.

Similarly the several banks affiliated to the central bank can require, by a unanimous vote, that the further issue of central debentures on behalf of a particular bank shall cease, proper regard being had to all well-founded rights based on previously issued debentures.

The central bank shall be dissolved should all the affiliated banks withdraw therefrom.

45. Alterations of the present statute, in so far as such can be effected without injury to the rights of the holders of debentures already issued, require resolutions of the general meetings, or of the select committees of the several affiliated banks when so empowered by their general meetings; they also need royal confirmation.

46. (Relates to the newspapers in which the bank must publish its notifications.)

LAW RELATING TO SOCIETIES FOR THE GRANT OF LAND CREDIT (FRANCE), 28TH FEBRUARY 1852.*

CHAPTER I.—LAND CREDIT SOCIETIES (LAND BANKS). †

1. Land banks, which are founded with the object of enabling proprietors who borrow on mortgage to repay the mortgage amount by means of long-term annuities, may be authorized by decree of the President of the republic after consultation with the Council of State. On such authorization they shall become possessed of the rights and be bound by the rules of the present law. ‡

2. The above authorization may be granted either to societies of borrowers or to societies of lenders. §

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* This is the law which governs the great French Land Bank called the 'Crédit Foncier': *See* pp. 69–74 and Chapter IV of Part I, Vol. I. It was largely based upon a study of the Prussian Landschaften and other German land banks.

† The words used in the law are always 'Society' or 'Society for land credit': in translation the word 'bank' or 'land bank' will be used for the sake of convenience.

‡ This authorization includes an approval of the articles of a bank as shown by section 48 *infra*.

§ This is the prime distinction between the two great classes of credit banks or societies: in ordinary commercial English they would be called co-operative and joint-stock banks respectively: a bank of the former class is a congeries of elected or selected members who unite their subscriptions, credit, and sometimes their whole property, to attract outside capital which they lend solely amongst themselves; the cost of credit and profits are reduced to a minimum, since it is through the grant of mutual credit that the profit of members is sought and not through the earning of dividends for the profit of investing at the cost of borrowing members; the interests of all members is identical, viz., cheap, safeguarded credit.

A bank of the latter class is merely a mass of capital in small shares, transferable at pleasure to any holder who purchases them, and the primary object is the obtaining of large profits through a big business at such rates as are most profitable; the interests of the shareholders and of the borrowers, who are not necessarily shareholders, are in fact opposed, the shareholders requiring high dividends, the borrowers cheap credit. The Prussian Landschaften are illustrations of the former class, the Crédit Foncier of the latter.

3. The operations of the banks shall be limited to the area fixed by the decree of authorization.

4. Land banks have the right of issuing debentures.

5. In order to assist the early operations of the banks, the State and departments (districts) may invest in a certain quantity of such debentures. The budget shall annually settle the maximum to be invested by the Treasury in this manner; such amount shall be divided amongst the banks as determined by their respective decrees of authorization. The same decree shall determine what share shall be received by each bank of the sum of £400,000 set apart for the establishment of land banks.

Chapter II.—Loans made by Land Banks.

6. Land banks may only lend on first mortgage (with a certain exception of no general importance). Loans by which all prior creditors are paid off both as to capital and interest are considered as first mortgages. In case of such loans the bank shall retain in its own hands so much as will effect the above payments.

7. No loan shall, in any case, exceed one-half of the value of a property; the articles of each bank shall determine the minimum loan to be granted.

8. (Relates to the 'purge' or postponement in favour of the bank of certain charges or claims. This was made optional by the law of 10th June 1853.)

If any claim is registered during the period allowed, the provisional loan deed will be held null and void.

9. [Contains precautions in case of certain claims under the French law (hypothèques légales).]

10. Borrowers shall repay their debts by annuity, but shall always possess the right of repayment in advance either in full or in part.

11. The annuity shall of necessity comprise—
 (1) the interest agreed upon which shall not exceed 5 per cent.;
 (2) the sum allotted as sinking fund;
 (3) (a contribution towards) the cost of management together with such charges as are fixed by the articles of the bank.

12. In case of non-payment of the annuities the bank may, in addition to its rights as creditor under the general law, have recourse to the methods of recovery contained in Chapter IV *infra*.

Chapter III.—Debentures issued by Land Banks.

13. The (land mortgage) debentures or bonds of land banks shall be to order (nominatives) or to bearer. Debentures to order are transferable by mere endorsement, without other guarantee than that provided by section 1693 of the Code Napoleon. *

14. The aggregate value of the debentures issued shall not exceed that of the loans granted. (They must be countersigned by the governor of the bank; law of 6th July 1854) and shall be registered at a fixed rate of 10 centimes (1*d.*) each.

15. No debenture shall be issued of less value than £4.

16. The debentures shall bear interest. In the course of each year debentures shall be redeemed to the value of the sums paid in towards the sinking fund.

17. The holders of debentures can recover their principal and interest only by proceedings against the bank itself. †

18. No attachment is valid (il n'est admis aucune opposition) against the payment of either the capital or interest (of the debentures) save only in case of the loss of a debenture. ‡

Chapter IV.—Privileges granted to Land Banks for the Safety and Recovery of their Loans.

A.

19. § For the postponement of known claims at law (hypothèques légales) a notice containing an extract from the mortgage deed || executed in favour of the bank shall be served—

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* This is as follows:—"The vendor of a debt or other incorporeal right is held to guarantee that such right exists at the time of transfer even though the contract provides no guarantee."

† That is, they have no right of action against any of the mortgagors of the society even though the debentures are issued against and secured by such mortgages; the society is the sole direct debtor of the debenture-holders. Nor can they proceed against other debtors of the bank by the means open to creditors of individuals under the general law, *e.g.*, by attachment of dues owed to the bank by third parties; they can proceed only against the bank itself.

‡ This provision, copied from the Prussian Landschaften, is intended to assist the debentures in finding a good market; a security which a creditor or other claimant cannot touch, and the proceeds of which must necessarily reach the holder, is a desirable investment. Moreover the bank is saved from frequent legal attachments, notices, &c. There is a similar provision in French law in the matter of public paper. The provision modifies the general law (section 1242 of the Civil Code).

§ Sections 19 to 25 are taken from the law of 10th June 1853, which cancelled those sections in the law of 1852. The 'purge' was made optional by section 2 of the same law of 1853, and in any case, only extends to 'hypothèques légales,' *i.e.*, the charges or claims created by the law, (*a*) in favour of a married woman over the goods of her husband; (*b*) in favour of minors and incapacitated persons, over the goods of their guardians; (*c*) in favour of the State and other public bodies over the goods of their tax-collectors and cashiers. These charges are valid without registration, but husbands and guardians are bound to register such charges (section 2136, &c., of the Civil Code). But section 24 of the present law provides against unknown, that is, unregistered charges.

The 'purge' of the present law merely operates to postpone the claims to that of the bank: it is not an absolute purge, such as that of the Jhansi Encumbered Estates Act. (*See* pp. 108–9 and 308 of Vol. I. There appears to be an error on page 308, since section 2136 of the Civil Code requires husbands and guardians to register charges at law.)

|| The bank and the mortgagor execute and register a provisional mortgage deed, and after the completion of the 'purge' and any other conditions or formalities, the final deed is executed and registered.

(*a*) upon the woman and her husband;
(*b*) upon the guardian or substituted guardian of the minor or incapable;
(*c*) upon the minor freed (from wardship) and his trustee;
(*d*) upon all unregistered creditors possessed of a claim at law.

20. (Particulars of the mortgage contract are to be entered in the notice.)
It shall moreover contain a notice that if desired that such claim shall maintain its priority as against the bank, it must be registered within 15 days from the date of the notice, with an allowance for distance.*

21 to 23. (Precautions to be taken in serving the notice where the woman is the wife of the person obtaining the loan, or when the borrower is the guardian of a minor, &c.)

24. For the postponement of unknown claims at law, an extract from the mortgage deed must be sent to the Government Pleader of the Court of the taluk (arrondissement) in which the borrower is domiciled, and of that in which the property is situated.
The extract shall also be inserted, with a note that the above notices have been sent, in one of the newspapers appointed for publishing the judicial notices of the taluk in which the property is situated.
Registration (of any unknown charges) must be made within 40 days of the above advertisement.

25. The postponement takes effect in default of any such registration within the periods fixed by the above sections.
Such postponement gives to a land bank priority over claims at law.
But such postponement shall not benefit third parties, who remain subject to the formalities prescribed by sections 2193, 2194 and 2195 of the Code Napoleon.*

B.—RIGHTS AND MODES OF EXECUTION BY A BANK AGAINST BORROWERS FROM IT.

26. The Courts shall not grant any postponement of the payment of annuities.†

27. The payment of annuities shall not be stayed by any attachment, ‡ (ne peut être arrêté par aucune opposition).

28. Annuities not paid at due date bear interest *de jure*.

The bank may, moreover, proceed to the attachment and sale of the property mortgaged in the manner and under the conditions prescribed by the following sections.

29. *Attachment*.—When a debtor is in arrears a bank may, by means of an order § which shall, on its request, be made by the Court of first instance (having jurisdiction), and within 15 days of service of such order, take possession of the mortgaged property at the risk and cost of the defaulter.

30. During such attachment the bank shall collect, notwithstanding any (other) attachment or distraint, the whole of the proceeds or produce (of the property), and, by (special) privilege, shall apply the same to the clearance of all annuities and costs due up to date.
This privilege takes rank immediately after those enjoyed on account of the expenses of maintaining the property, the wages of labour and of sowing the crops, and the rights of the Treasury for the collection of the taxes.||

31. In case of dispute regarding the balance sheet of an attachment, the matter shall be decided by the Court summarily.¶

32. *Eviction and sale*.—Whenever an annuity is in arrears, and whenever by reason of the deterioration of an estate or for any other cause mentioned in the articles, the repayment of the principal (of a loan) may be demanded, the sale of the immovable property (under mortgage) may be proceeded with.
If objection is raised thereto, the matter shall be decided, as a summary suit, by the Court in the jurisdiction of which the property is situated. The judgment in such suit shall not be subject to appeal.

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* *See* pp. 108–9 and 308 of Vol. I.

† Since the interest on debentures has to be paid by the bank to the very day, it is equally necessary that the bank should be paid by its debtors with similar punctuality. Hence not even the Courts can grant a debtor any privilege in the way of postponement of dues or payment of the annuities by instalments, &c. This provision modifies the general law (section 1244, Civil Code) by which the judges can grant moderate delays.

‡ This is a large privilege, by which the bank obtains a certain precedence for its dues when once established by the contract deed. No creditor or claimant, not even a decree-holder, whether of the bank or of the borrower, can attach an annuity on its way to the bank.

§ The order is not a decree in a suit, but merely an order of an executive nature, which the debtor can object to not by appeal but by a suit brought against the bank for cancellation of the order.

|| The "privilege" is "a right of preference over other creditors, even mortgagees (hypothecaires), enjoyed by a "particular creditor in virtue of the nature of his claim. Privileged creditors take rank among themselves according to "the particular class of their claim." (Sections 2095, 2096 of the Civil Code.) These 'privileges' extend to both movables and immovables, but the privilege of the text is over movables only, since it is a right on the proceeds of the estate and not over the estate itself. The case, therefore, is one of those mentioned in section 2102 of the Civil Code which are as follows:—(1) The preferential right of the landlord for his rent, subject however to a prior right over the crops for the cost of sowing and reaping the crops, and over the implements for the cost of purchasing such implements; (2) the preferential right of a pawnee over the pledge held by him (it will be noted that the landlord's right precedes the pawnee's); (3) the preferential right on account of money expended in preserving the property; (4) the preferential right for the price of goods bought but not paid for, if still in the possession of the debtor. There are three subsequent classes of 'privilege' under this section, but the privilege of the text takes rank next after (4) and before the next three.

¶ The summary procedure of the French Civil Procedure Code is really summary; *see* sections 404 to 413 of the Code: section 405 says "summary cases shall be disposed of at first hearing without other formalities," the procedure is brief and inexpensive. The procedure in the commercial Courts is of the summary nature.

33. In proceeding to the sale of an immovable, a land bank shall issue to the defaulter a demand notice (commandement) in the form prescribed by section 673 of the Civil Procedure Code. This demand notice shall be registered in the office of the registration area in which the property is situated.

In default of payment within 15 days, three advertisements, with at least 10-day intervals, shall, within the six weeks following the above registrations, be made in certain newspapers as provided in section 42 of the Code of Commerce, and two notices shall, at 15-day intervals, be affixed (*a*) in the court room (auditoire) of the court where the sale is to take place, (*b*) at the door of the office of the mayoralty in which the property is situated, and (*c*) on the property when it is a building.

The first affixture of the notice is communicated within eight days to the defaulter and to any registered creditors at their place of domicile with a summons to take service of the notice of the conditions of sale.

Fifteen days after the execution of these formalities, the auction sale may be proceeded with in the presence of the defaulter or, after he has been duly notified, * before the court within whose jurisdiction the property or the larger part thereof is situated.

The court may, if moved by the bank before the appearance of the first advertisement, order that the sale shall take place either before another court or at the office of a notary of the canton or taluk (arrondissement) in which the property is situated. This order is not open to appeal, nor can any objection be raised (to the proposal of the society) save within three days *plus* an allowance for distance after due notice given to the defaulter.

34. From the date of registration of the demand notice (section 33), the defaulter shall not be able to alienate the mortgaged property to the prejudice of the bank, nor burden it with any real charges.

35. The demand notice, the copies of the newspaper containing the advertisements, the memorandum attesting the affixture of the notices, the summons to take service of the list of conditions of sale, and to be present at such sale, shall be annexed to the sale proceedings (procès-verbal).

36. Any objections or pleadings must be entered on the memorandum of conditions at least eight days before that fixed for the sale. Such notice of objection must appoint a solicitor.

The court shall take cognizance of any objection upon due exchange of notices between solicitors.† It will decide the matter on a summary enquiry, but such enquiry shall not postpone the sale.

37. If, at the registration of the demand notice (section 33), there shall be in actual existence a prior attachment made on demand of another creditor, the land bank may, after simple notice to the solicitor of such creditor, and provided that the memorandum of sale conditions has not been already deposited (in court by the other creditor), proceed to sale in the manner provided by the preceding articles.

If the memorandum of the sale conditions has been already deposited prior to the registration by the bank of its demand notice (section 33), the bank shall not enjoy the privilege of being substituted for (of preceding) the attaching creditor.

No postponement of the sale shall be allowed if the bank objects thereto.

In case of any negligence on the part of the bank, the attaching creditor may resume his right of proceeding (to sale).

38. Within eight days of the sale the purchaser is bound to pay to the bank provisionally the amount of the annuity due.‡

After the period allowed for further bidding § has elapsed, the balance of the purchase money shall be paid over to the bank up to the full amount due to it, notwithstanding any attachments, objections or registered claims by creditors of the defaulter; provided however that such creditors shall have the right to sue for recovery of any excess (en répétition) should the bank have been unduly paid to their prejudice.‖

39. If the property has been sold by lots, or if there are several purchasers without joint interest, each purchaser is only bound as regards the bank up to the amount of his bid.

40. The procedure for the 'surenchère' shall be that prescribed by section 708 *et seq.* of the Civil Procedure Code.

When the required sale has been before a notary, the surenchère must be made at the court of the taluk at which the sale was decreed.

41. When a bidder has failed in his engagement so that a re-sale is necessary (lorsqu 'il y a lieu à la folle enchère), sections 33 to 37 of the present law shall be followed.¶

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* Any registered creditors other than the bank should also be notified; otherwise their claims will remain as encumbrances; if present or duly notified their claims will determine as regards the property and will be valid only against the sale price.

† This appears to the *meaning* of the phrase " le tribunal est saisi de la contestation par acte d'avoué à avoué. "

‡ This is large privilege modifying the general French law, which provides numerous delays and precautions before a creditor can touch the proceeds of the court sale which he has brought about. In the ' Statement of objects and reasons ' of the present law the following is found :—" Ought the bank to be subjected to the incalculable delays entailed by the ordinary procedure before touching its money ? Such delays would be disastrous to a bank to which the power of punctually fulfilling its engagements is all important."

§ Surenchère : The procedure for the forced sale of landed property under the French Code of Civil Procedure (sections 673–748) is very curious and lengthy; numerous precautions are taken to prevent any hurried sale to the prejudice of the owner or of other creditors. One of the provisions (section 708) provides that after the auction before the court has been duly and solemnly conducted "any person may, within eight days subsequent to the knocking down " of the property, make through the agency of a solicitor a higher bid (surenchère), provided that such bid shall exceed " the auction price by at least one-sixth." The bid shall be communicated to the court, may not be withdrawn, and shall be followed by a fresh auction with the further bid as the upset price ; should the further bidder fail to make good his bid, he is liable in his body for the difference.

‖ Section 38 is now applicable to all sales of property under mortgage to the bank (section 7 of the law of 10th June 1853).

¶ It seems that the procedure in such cases by the general law (section 733 *et seq.*, Civil Procedure Code) is speedier and less costly than a repetition of the procedure under sections 33 to 37 of the present law, and is usually followed by the bank.

42. All rights granted in the present chapter may be exercised against third persons in possession of the property after due service of the demand notice (section 33) on the defaulter.

Proceedings begun against a defaulter are valid as continued against him until any third parties to whom the defaulter may have alienated the property shall have given notice to the bank of such alienation. In such case proceedings shall continue against such third parties.

Chapter V.—General.

43. (Treats of the supervision of land banks.*)

44. Banks are forbidden to undertake any business other than that prescribed by the present law.

45. Banks may deposit their disposable funds in the Treasury on conditions to be laid down by Government.

46. The funds of incapacitated persons and of communes may be invested in land bank debentures. So also may be invested disposable funds belonging to public institutions, or institutions of public usefulness, in all cases in which such institutions are entitled to invest their funds in Government paper.

47. The registration of mortgages on behalf of land banks is exempt throughout the whole period of such loans, from the decennial renewal required by section 2154 of the Civil Code.

48. The articles of a bank to be approved under section 1 *supra* must particularly mention—
(1) the mode of valuing properties;
(2) the nature of properties not admissible on mortgage, and the minimum loan which may be made on each class of (admissible) property;
(3) the maximum loan which may be granted to a single borrower;
(4) the tables for the calculation of annuities;
(5) the method and conditions for payments in advance;
(6) the interval between the payments made by borrowers and the payment of interest by the bank;
(7) the mode of issuing, recalling and repaying debentures whether with or without premia (bonuses) and the method to be adopted for cancelling redeemed debentures;
(8) the building up of a guaranteed or reserve fund;
(9) the conditions which shall lead to dissolution, and the methods and conditions of liquidation;
(10) the security and other guarantees to be demanded from the managers and other employés, as also the mode of their appointment.

49. (Relates to the framing of a set of rules for the supervision, &c., of the bank; this was cancelled by the law of July 1854.)

ARTICLES OF THE 'CRÉDIT FONCIER OF FRANCE.' †

Chapter I.—General.

1. The bank takes the name of the 'Crédit Foncier de France.'

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* This section placed land banks under the supervision of the Home Minister and of the Ministers of Agriculture and Commerce and of Finance. Inspectors were also provided, under section 49, for carrying out the details of such supervision. This was found cumbrous; the 'Crédit Foncier' had moreover assumed such proportions as to be almost a national institution and to require different treatment. Hence the law of 26th July 1854 which is substituted for sections 43 and 49 of the present law; its chief sections are as follows:—

1. The management of the 'Crédit Foncier of France' is exercised by a governor.

The governor appoints and dismisses the staff, presides over the council of administration and the general meeting, and countersigns the debentures: no resolution is valid if not approved and signed by him.

2. Two sub-governors perform such duties as are delegated to them by the governor, and take his place in case of absence or sickness.

3. The governor and sub-governors are appointed by the Emperor.

4. Before taking office the governor must show that he is possessed of 200 shares in the 'Crédit Foncier' and each sub-governor of 100.

5. The governor shall receive from the bank an annual salary of £1,600: the two sub-governors (each) receive £800.

6. Three of the members of the council of administration (board of directors) shall be taken from among the collectors-general of the finances.

7. (Abolishes certain restrictions as to the duration of annuities, that is, of loans.)

8. The bank is authorized, in addition to loans repayable by annuity, to grant short-term mortgage loans, repayable in lump, from the capital arising from shares and profits.

† *See* Vol. I, pp. 69 to 74, and Chapter IV *passim.*

The law translated above was passed on the 28th February 1852; by the 28th March of the same year a land bank (Crédit Foncier de Paris) was founded and approved by the decree of that date; this bank was to make long-term loans upon the issue of long-term debentures, and was granted a monopoly of operations *under the special law* for 25 years; its articles were, under section 1 of the law, subject to the approval of Government. On the 18th November 1852 this land bank agreed with Government to extend its operations, and the decree of the 10th December 1852 gave it the name of the 'Crédit Foncier de France,' extended its operations and monopoly under the Act to the whole of France, permitted a large increase of capital, and granted a subvention payable by instalments.

Subsequently the bank was required or authorized—
(1) by the law of 28th May 1858 to grant loans for drainage (rural) in place of the State;
(2) by the decrees of 11th January 1860 and 17th January 1863 to grant loans (mortgages) in Algeria to landholders, districts and communes, and associations;
(3) by a law of 26th May 1860 to discount the paper of the 'Sous-Comptoir des entrepreneurs;'
(4) by a law of 6th July 1860 to lend with or without mortgage to departments (districts), communes, and associations and to issue debentures against such loans, and by a law of 26th February 1862 this was extended to loans to hospitals and other public institutions (*see infra*).

Only extracts will be given from these articles, which were authorized by Government in conformity with sections 1 and 48 of the law.

Its objects are as follows :—

(1) To make to the owners of immovable property mortgage loans either over a long term by annuities or over a short term by annuities or in lump;

(2) To issue and circulate land mortgage debentures (obligations foncières or lettres de gage) to an amount not exceeding that of the sums due to the bank by its borrowers.

It may, with the sanction of Government, make use of any other system with the object of facilitating loans on immovable property, of improving the soil, of developing agriculture, and of extinguishing the (existing) debt on immovable property (la dette foncière).*

The bank may treat with French or foreign assurance companies with the view of facilitating the liberation of borrowers (from debts to such companies).

In no case, whatever be the origin or nature of the funds available, shall the bank do any business, whether in the form of purchases or repurchases, advances or renewals on paper other than land mortgage or communal † debentures, or on paper accepted by the bank of France as security for advances.

The bank is prohibited from buying or making advances upon its own shares.

2. The bank may receive deposits at interest or without; the total of such deposits shall not exceed £4,000,000.

Deposits shall be invested as follows :—

(1) One-fourth at least in account current with the Treasury at such rate of interest as shall be fixed by the Finance Minister; a larger proportion may be similarly invested with his consent. Securities to the above value may be deposited instead of cash, if accepted by the minister.

(2) The balance in Government paper or Treasury bonds, or in advances for terms not exceeding 90 days on the security of debentures issued by the Crédit Foncier or of securities as accepted by the Bank of France for advances, or, finally in bills of at most 90 days, bearing at least two good signatures and made out to the order of the bank.

* * * * *

Chapter II.—Capital and Shares.

4 to 17. (The capital is fixed at present at £6,820,000 in 341,000 shares of £20 each, but may be increased to £8,000,000, when one-fourth at least shall be invested in Government paper; the capital shall be maintained at a sum equal to at least one-twentieth of the total debenture issue. The special function of the capital is to secure the business engagements of the bank and especially its debenture issue: it is a guarantee fund rather than a working capital. Shares are to bearer or personal, the latter being only transferable by a transfer in the bank's registers based upon a written document. The liability of shareholders is strictly limited to the amount of the shares held by them.)

Chapter III.—Administration.

18 to 22. (Describe the powers and duties of the governor and sub-governors. The shares necessarily held by them (200 and 100 respectively) are inalienable so long as they hold office, and are specially charged as security for their good conduct.)

23 to 35. [Deal with the council of administration (board of directors), which has from 20 to 23 members exclusive of the governor, sub-governors, and supervisors (censeurs); the ordinary members are appointed by the general meeting: three must be high finance officers (Trésoriers payeurs généraux des finances)].

28. Every director must, within eight days of his appointment, deposit in the office of the bank 100 shares, which shall be inalienable so long as he holds office.

29. The duties of directors are gratuitous; they are allowed sitting fees (jetons de présence), the amount of which shall be settled by the general meeting.

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36. *Supervisors* (censeurs, auditors).—The supervisors are three in number appointed by the general meeting: they hold office for three years, retire at the rate of one *per annum*, but are re-eligible. Articles 27, 28, and 29 apply to supervisors.

37. The duty of the supervisors is to watch over the strict execution of the articles. They attend the meetings of the board of directors, assist with their opinion (but not with their vote). They supervise the preparation and issue of debentures, examine the balance sheet and annual accounts, and report on these matters to the general meeting when necessary. The books, accounts, and all documents must always be presented for their examination when so required: they may at any time verify the cash balance and bill case; and they may, when all three agree to that effect, require the convocation of an extraordinary general meeting.

38. *General Meeting.*—(Represents the mass of shareholders, but consists only of the 200 largest holders. Proxies can only be given to shareholders. Forty qualified members form a quorum if they hold one-tenth of the total share issue: failing such conditions, a second meeting shall be called, which shall have full powers whatever the number of members present or of shares held. The other provisions are of an ordinary nature.)

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* See the preceding note for the development of the bank's operations.

† That is, debentures issued by the bank against loans to communes.

Chapter IV.—Loans.

51. Agreeably to article 1 the bank will grant mortgage loans of two classes, viz.:—

(1) Long-term loans repayable by annuities so calculated as to pay off the debt in a period of 10 years at the least and 75 years at most, whether in France or in Algeria.

(2) Short-term loans, repayable in lump or by instalments.

Loans may be made either in cash or in land mortgage debentures.

52. The bank will only lend to owners of immovable property on first mortgage, save only in such cases as are contemplated by the law and these articles. (Repeats the conditions of the law, section 6.)

53. When the bank deems it necessary to undertake the formalities of the 'purge,' it shall proceed in conformity with section 1 of the law of 10th June 1853. *

54. The bank shall not grant loans (1) on theatres; (2) on mines and quarries; (3) on undivided property,† unless the mortgage extends to the whole of such property and has the consent of all the co-sharers; (4) on property in which possession and ownership (l'usufruit et la nue propriété) are not united, unless all those interested join in agreeing to the mortgage.

55. The bank will only accept mortgages on properties which yield a certain and durable income. ‡

56. The amount of a loan shall not exceed that of one-half of the value of the mortgaged property.§

It shall not exceed one-third of such value in the case of vineyards,|| woods and other properties of which the income depends upon plantations. Factory buildings shall only be estimated at their intrinsic value irrespective of their value as attached to the enterprise.

57. In no case shall the annuity to the payment of which the borrower binds himself exceed the total income of the property mortgaged. ¶

58. The rate of interest on loans shall be fixed by the board of directors, but shall not exceed by more than 0·60 per cent. the actual rate (prix de revient) payable by the bank on debentures in issue at the time the loan is granted. **

59. The annuities shall be paid in cash, and shall include (1) the interest, (2) the sinking fund contribution as determined by the rate of interest in combination with the duration of the loan. ††

60. Annuities are paid by half-yearly instalments at the dates fixed by the board of directors (now 30th April and 30th October).

At the time of granting the loan the bank will retain such amount as will cover the interest, &c., due up to the end of the first half-yearly period.

61. (Interest at 5 per cent. is payable on all arrears whether of annuities or costs of any sort.)

62. Moreover, default in the payment of a half year's dues renders the defaulter liable to a demand for the repayment of his whole debt in full one month after accrual of the arrear.

63. Borrowers are entitled to repay their debts in advance, whether in whole or in part.

Repayments in advance may be made at the choice of the debtor, either in cash or in land mortgage debentures of the series mentioned in the loan deed. When repaid in debentures, such debentures shall be received at par, whatever may be their market value.

A borrower repaying in advance must pay compensation (indemnité) to the bank, which shall not exceed 3 per cent. of the sum so repaid. ‡‡

Sums repaid in cash in advance shall be expended in redeeming or purchasing land mortgage debentures, or in granting new loans.

64. A borrower is bound to notify to the bank, within one month, any alienation, whole or partial, which he may have made (of the property mortgaged). In default of such notification in due time, the bank may demand full repayment of his loan together with compensation as mentioned in section 63.

65. A borrower must also notify, within the period mentioned above, any deteriorations which the property may have suffered and all natural events which might diminish its value, or disturb his possession or injuriously affect his rights of ownership.

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* *See* sections 19 to 25 of the law *supra*, and pp. 108-9 and 308 of Vol. I.

† This indicates a grave Indian difficulty; the French bank recognizes it, though a far less common or intricate question in that country of surveyed, settled, and fairly well registered estates and claims.

‡ This prevents the bank from undertaking the rôle of a land improvement bank: it will not lend on property which, after and by means of the expenditure of the loan, may become valuable, but is not so at the time the loan is sought. Such loans are given by a different class of banks and under special precautions. *See infra* 'Land Improvement bank,' and Vol. I, pp. 70, 63-65. This section also explains the refusal, in section 54, to grant loans on theatres, mines and quarries.

§ That is, of the estimated value, and great care is taken that such value shall be well within the market value.

|| This indicates the uncertain value of such properties in France, where the phylloxera, droughts, floods, and hail frequently destroy properties or their crops to a frightful extent.

¶ This is a noteworthy precaution adopted in security both of the bank and of the borrower. The bank will not allow reckless engagements to be entered into, it being obvious, that if a man's income or circumstances are such that he must borrow, that income cannot suffice to maintain him and also repay the loan, except where the loan is intended for a *bonâ fide* and certain improvement. This point is too often lost sight of by borrowers and by lenders—the latter often with intention—in this country.

** This condition marks the care with which the bank, in conformity with the law, seeks to make its loans as cheap as possible. If the bank can borrow at 4 per cent., the interest payable to it by the borrower shall not exceed 4·60: if it succeeds in placing its debentures at 3½ per cent., the charge to borrowers *ipso facto* falls to 4·10. The cost, however, must be the actual cost to the bank: its debentures may be issued at 3½ per cent., but at a considerable discount, or there may be additional charges for lottery prizes, bonuses on repayment, &c.; this must be taken into account in calculating the actual rate paid by the bank.

†† The sinking fund contribution obviously differs according to the rate of interest even when the duration of loans is the same, *see* Vol. I, pp. 108–110.

‡‡ The present rate of such compensation is 0·5 per cent. as per section 9 of the law of 6th July 1860. The compensation is to indemnify the bank for any loss, delay, or cost incurred in the re-investment of the amount.

In default of such notification and in any case should the interests of the bank be compromised by such deterioration or events, the bank may in conformity with section 32 of the law of 28th February 1852 (*see supra*, p. 16) demand repayment of the loan.

66. The loan shall equally be liable to recall, with the compensation mentioned in section 63 *supra*, should the borrower conceal any suits upon claims at law (hypothèques légales), or for cancellation or rescission (of a contract affecting the property) which may form a charge upon the property mortgaged to the bank.

67. Property liable to damage by fire must be insured at the cost of the borrower, unless the bank at the same time holds in security of the debt not only the property in question, but also other property not liable to damage by fire and double the value of the debt.

The loan deed shall contain a condition transferring (to the bank) in case of damage the amount insured.

The policy must be maintained throughout the whole duration of the loan.

The bank may require that the policy shall be made out in its own name and that the premia shall be paid by itself. In this case the amount of the annuity (payable by the borrower) shall be correspondingly increased.

68. In case of damage the amount assured shall be paid direct to the bank.

During one year from the date of the damage, the debtor shall have the right of restoring the property to its original condition. During that period the bank will hold the amount of insurance as a security; after the property has been restored to its original condition, it shall pay over the amount to the debtor after deducting any dues.

If, at the end of a year, the debtor has not used his right of restoring the property, or, if, before that time, he has notified to the bank that he does not intend to restore it, the bank shall definitively credit itself with the assurance amount, setting it off against the debt as a payment in advance.

69. Repayments in advance arising from such damage do not carry the compensation sanctioned in section 63.

The bank may demand (the immediate) repayment of any balance due, should it deem that its interests are endangered by the damage.

70. In the valuation of properties offered in mortgage, all documents, lease deeds and other sources of information tendered by the proprietor seeking the loan shall be considered. The bank may also cause a valuation to be made by experts. In all cases the valuation shall be made upon a consideration both of the actual income and of the market value.

71. When the property is in order and the security sufficient, the board of directors will determine the amount of the loan to be made and will proceed to the execution of the conditional loan deed.

72. After obtaining the supplementary statement of registered claims, including that of the bank, the formalities of the 'purge *' will be carried out if necessary: after such formalities or at once, should the 'purge' not be necessary, a deed shall declare the conditional deed to be cancelled or rendered absolute, according as registered claims burdening the property shall or shall not have been discovered.

In the first case the document must contain a withdrawal of the registration in favour of the bank, and must be signed by the governor only. In the second case the document must be signed by both the governor and the borrower; it shall recite the completion of all formalities, the delivery of bonds (debentures) to the amount of the loan, and the date from which interest shall run.

73. All costs and disbursements necessitated by the request for a loan shall be at the expense of the candidate for the loan even where such a loan is not finally granted.

Chapter V.—Land Mortgage Debentures.†

74. The land mortgage debentures issued by the bank shall be to order or to bearer (nominatives ou au porteur).

75. Debentures to order are transferable either by mere endorsement without further guarantee than that provided by section 1693 of the Code Napoleon (*see* section 13 of the law *supra*), or in such other way as may be determined by the board of directors.

The bank is free from further responsibility when it has paid the person holding the debenture (tiers porteur); in no case is it responsible for the regularity of a transfer.‡

Debentures to bearer are transferred by mere change of hands.

76. The amount derived from the issue of land mortgage or communal debentures shall not exceed that of the mortgage or communal loans granted by the bank.§ The amount derived from such issue shall, pending their regular employment (in loans), be invested in the proportion to be decided by the board, in Government paper, in debentures of the City of Paris, of districts, and of communes, in shares of the Bank of France, in land mortgage and communal debentures, and in debentures of railway companies, the interest on which is guaranteed by the State.

77. No land mortgage debenture shall be issued below £4 in value.

78. Holders of debentures have no right of action for the recovery of their principal and interest save directly against the bank.

* *See* Vol. I, pp. 108–109 and 308; also sections 19 to 25 of the law *supra*.

† By section 5 of the law of 6th July 1860 relating to loans to communes, debentures issued against loans to communes, &c., (obligations communales) are placed under the rules of the Chapter V, and also enjoy all the rights and privileges of land mortgage debentures.

‡ This provision (*cf.* section 79, last clause) relieves the bank from connection with the thousand disputes that may arise regarding the title to debentures and their interest; the bank is entitled to pay to the person holding or presenting the debenture or the interest coupon, and any claimant must sue such person and not the bank.

§ That is, the amount of the land mortgage debentures shall not exceed that of the land mortgage loans, and that of the communal debentures shall not exceed that of the communal loans: *see* section 6 of the law of 6th July 1860 *supra* relating to loans to communes; the two classes of loans are quite distinct.

79. Debentures shall bear interest, the rate, date and mode of payment of which shall be fixed by the board of directors. No longer period than three months shall intervene between the payment of interest by the bank's borrowers and the payment of interest to the debenture-holders.

In whatever form the debentures are issued (whether to order or to bearer), the payment of interest to the holder is valid.

80. Debentures shall be in the form of documents which shall be taken from a stub. They shall be signed by a director, stamped with the seal of the bank, and countersigned by the governor.

81. The board of directors may authorize the deposit of such debentures in the safe; a certificate in the name of the depositor shall be issued to be returned at withdrawal. The board shall determine the conditions, &c.

82. Debentures shall bear no fixed date for repayment of the capital.* The particular debentures to be repaid shall be determined by lot (tirage au sort).

Every repayment shall include so many debentures as may be necessary to prevent those remaining in circulation from exceeding in value the amount outstanding on mortgage.

83. With the permission of Government debentures may be made repayable with prizes and bonuses.†

The board of directors shall determine the rates and amount of such distribution.

84. The drawings are carried out by the board of directors in presence of the supervisors (censeurs).

85. Within eight days of each drawing the numbers drawn must be published by notice at the bank office and by advertisement in two of the newspapers in which the banks notices customarily appear.

86. The debentures of which the numbers are drawn shall be repaid on the day mentioned in the published notices, from which date interest thereon ceases.

87. Debentures drawn by lot must, on repayment, be immediately marked with a cancelling stamp. They must be destroyed in presence of the governor, of a director, and of a supervisor, and a memorandum of the fact duly drawn up.

Debentures, which return to the bank through payments in advance, must be marked with a special stamp, and cannot be re-issued without fresh countersignature by the governor. They take part like other debentures in the periodical drawings.

Chapter VI.—(Deals with the Annual Balance Sheet.)

Chapter VII.—Division of Profits.

89. The actual profits are distributed as follows:—

(1) Five per cent. on the paid-up capital is allotted to the shareholders:

(2) An amount not less than 5 per cent. and not exceeding 20 per cent. of the remainder is passed to the obligatory reserve; other sums may also be allotted to optional reserves, ‡ if so proposed by the board and approved by the general meeting.

The remainder will be added to the dividend due to the shareholders.

90. Every dividend not claimed within five years from date of declaration accrues to the bank.

Chapter VIII.—The Obligatory Reserve. §

91. The obligatory reserve is accumulated from the proceeds of the annual allotment from profits as per article 89 *supra*.

When such reserve reaches the amount of one-half of the bank's own capital, such allotment may cease, but is renewed should the reserve be drawn upon.

This reserve is intended to meet unexpected emergencies should the dividend of any year fall below the amount of 5 per cent., the deficit may be met from the reserve.

The investment of the funds of the reserves, both obligatory and special, are determined by the board of directors.

(The remaining chapters treat merely of changes in the articles, and of dissolution and liquidation, and do not call for translation.)

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* That is, no specific date is marked on a debenture for the payment of that particular debenture. But they all bear a promise of repayment within a particular term, *e.g.*, "Repayable at par as determined by lot (tirage au sort), at latest within 75 years from 1st January 1884."

† One great secret of the market value of these debentures lies in this article. The "tirage au sort" is not necessarily a lottery; it is merely a determining by lot (by withdrawing numbers at random from a wheel) the particular debentures to be repaid; this is frequently resorted to in England for the same purpose. But in Continental Europe it is usual to increase the popularity of these securities by adding the chance of prizes or bonuses. *E.g.*, in the Crédit Foncier, at each of the four or six drawings per annum for each issue or series of debentures (loans of 1853, 1863, 1879, &c.) many hundreds or thousands of debentures each of (say) £20 will be drawn by lot and repaid at par, but, *in addition*, a certain number, *e.g.*, the 50 or 100 first drawn, will obtain prizes varying in value from £4,000 to £50 each. This, though partaking of the spirit of gambling, since the prizes are in reality obtained from a share of the excess paid by the many over the true market value of a debenture at the nominal interest of the debentures, is not a regular gambling lottery where a few gain everything to the total loss of the many; every debenture-holder is eventually repaid at par and may gain a prize.

The method of repaying with a universal bonus is wholly free from the real gambling spirit; a debenture costs an original purchaser £20, and is repayable not at par but at (say) £25; *e.g.*, the loan of 1853-54 is wholly repayable at this rate. Here every one obtains a bonus, and the only element of chance is in the accident of drawing whereby some holders obtain early repayment of their investment *plus* the bonus. Occasionally the prize and bonus system are combined.

‡ *E.g.*, reserves for equalizing dividends, for the provision of prizes and bonuses, for recouping any difference between the market and par value of debentures, &c.

§ Obligatory by section 48 (8) of the law, *q.v.*

LAW OF 6TH JULY 1860.

(Authorizes the Crédit Foncier of France to lend to districts, communes, and syndical associations.*)

1. The 'Crédit Foncier' is authorized to lend on the following conditions to districts, communes, and syndical associations such sums as they may have been permitted † to borrow.

2. Loans may be granted with or without mortgage, ‡ and repayable either over a long term by annuities or in a short period in lump or by instalments.

3. Loans are payable in cash only.

4. The commission payable to the bank towards costs of management shall not exceed 0·45 per cent. per annum.§

5. The bank is authorized to issue debentures in representation and to the amount of its loans (to the above bodies), in conformity with the rules contained in Chapter V of the articles of the bank.

These debentures shall enjoy all the rights and privileges attached to land mortgage debentures by the laws governing the Crédit Foncier.

6. The sums due to the bank on account of loans to communes, districts and associations are specially and preferentially assigned for the payment of the debentures issued under the present law.

The sums due to the bank on account of land mortgage loans remain assigned specially and preferentially for the payment of the debentures issued in representation of such loans.||

7. The bank may, before granting any loans under the present law, issue temporary debentures for a sum not exceeding £200,000.¶

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* This is an important development of the Crédit Foncier; the demands of an advancing state of society with local Government require roads, schools, hospitals, sanitation, agricultural developments and many other classes of local improvement, and for these money is necessary, the burden of which should, by natural equity, be spread over many years and be borne by those who successively enjoy them; it is impossible and inequitable to provide the capital for those improvements from revenue, and the result is a demand for long-term loans repayable by annuity.

There are many reasons why the State cannot grant these loans to any great extent; it is difficult for a great State to provide in its budget the large sums annually necessary; the delays in investigation of the projects and in the provision of funds are annoying; it depreciates State credit to owe immense debts; and there would be a perpetual tendency on the part of local bodies to try and shift burdens, actual or prospective, from their own shoulders to those of the State. Hence the necessity for a great financial institution expressly organized to examine local demands for considerable loans and able to provide funds to any extent at a moment's notice.

The 'Crédit Foncier' has been able to meet this demand to an immense amount: between 1860 and 1890 it had granted 16,577 communal loans for £78,720,000, and the outstanding loans in 1890 were valued at £46,540,000.

The bodies to whom loans may be advanced are 'Départements, communes, et Associations syndicales.' An elaborate exposition of French administrative methods would be necessary exactly to explain these terms; suffice it to say that the word 'Département' may be rendered 'District' or 'District Board' for Madras readers, though the Département of France is more closely connected with the general administration than the District Board with its mere local powers.

The commune or village is a European unit which has no counterpart in Madras administration except the inchoate village union: the European village is a small municipality with property, budget and local powers quite unknown in this Presidency; the possible development of the Madras village as an administrative unit is one of the most interesting of political and social studies and problems.

The 'Association Syndicale' is another organization peculiar to Europe, and well worth detailed study as an example for this Presidency. It is found in Europe that many classes of agricultural and rural development cannot be carried out by individuals; joint action is necessary, such action often extending over the area of several communes; such are the provision of dykes and banks against encroachments by the sea and rivers, the regulation and improvement of canals both for navigation and irrigation, the draining of marshes, the afforestation of tracts of country, the development of waste and incultivable areas, &c. Hence laws have been passed for the encouragement and even the enforcement of such associations; Government in Europe does not profess to carry out the irrigation and other works undertaken in this Presidency by the Revenue, Public Works, and Forest Departments, nor is it content with merely suggesting such enterprises by joint action; it frequently compels such improvements at the expense of the people themselves. For a brief notice of such forced or voluntary associations in Prussia, *see* Vol. I, pp. 63 and 64, the laws being those of 1843, 1846, 1848, 1854 and 1879; *see* also 'Report on the Land Tenures of Europe,' 1869, &c. In France the law for 'Associations Syndicales' is that of 24th June 1865, amended by that of 22nd December 1888, but the associations were of earlier origin and were regulated by special decrees. The objects of these associations are recited under nine heads and are of the nature mentioned above; the associations may be free or authorized; the latter alone have certain privileges and are much the most important; these authorized associations are either voluntary or formed upon the initiative (practically the orders) of the mayor, prefect (collector), &c. The execution of the objects of the associations is assigned to syndics (trustees or agents) and a Government set of rules prescribes certain details. The law will be found translated in another part of this appendix. By the law of 26th February 1862, the present law (of 1860) by which the Crédit Foncier may grant loans to communes, &c., is extended to hospitals and other public institutions, and, in certain cases, to religious establishments, benevolent bodies, and other institutions of recognized public utility.

† Permitted, that is, by the authorities which regulate their working. The several bodies are governed by their respective laws and rules framed thereunder, the study of which is of the highest interest.

‡ The public bodies of the first two classes are usually in possession of considerable property in lands, buildings, and own funds; these are mortgagable in the ordinary sense. But, as public bodies, they obtain large sums by annual rates and taxes and by contributions from the Treasury, and these sources may presumably be pledged in security of loans.

§ That is, the difference between the interest payable by the borrowing institution and that paid by the bank on their debentures shall not exceed 0·45 per cent.

This commission was abolished in 1879 by a resolution of the board of directors, but re-established in 1883 as regards syndical associations and fixed at 0·40 per cent.

|| That is, the two main sets of operations are kept perfectly distinct; the debentures under the general law governing the Crédit Foncier (1852, &c.,) are secured by the land mortgage loans granted as the primary business of the bank, while its debentures issued against loans to communes, &c., are secured by such loans only and not by the mass of mortgages held under the general law.

¶ Obviously to provide a first working capital, the general credit of the bank being good enough for so moderate a sum.

8. The shares issued by the bank shall be kept at the ratio of at least one-twentieth of the debentures in circulation.

9. In case of repayment in advance, the compensation payable by the debtor is fixed at 0·5 per cent. of the amount repaid.

In modification of article 63 of the articles of the bank, the preceding rule shall apply to all * operations with the bank.

LAW OF 8TH JUNE 1871, RELATING TO THE BODEN-KREDIT INSTITUT (HUNGARY).†

1. The land bank is placed under the jurisdiction of the commercial court of first instance in Pesth in so far as regards all actions by or against the bank. There shall be no exception to this rule unless expressly so provided by the present law.‡

2. Questions relating to the repayment of the debentures or bonds issued by the bank shall be dealt with by the said court.

3. The said court shall also proceed to execution against the debtors of the bank in so far as relates to their movables found within the limits of the City of Pest-Ofen; when their movables are beyond such limits execution shall be had on application to the judicial authority of the locality in which such debtors are domiciled.

When execution is sought against immovable property, recourse shall be had to the court within whose jurisdiction such property is situated.

4. When proceedings in bankruptcy are begun against a debtor, recourse must be had to the court adjudicating thereon.

5. The bank may, as plaintiff, sue for the fulfilment of its dues under the procedure mentioned in the present law whether before the court in which its debtor would ordinarily be sued or before any court expressly mentioned in the debt bond.

6. The courts mentioned in the above sections are bound to expedite the disposal of demands of the bank, placing them *extra seriem* (outside of the ordinary cause-list) and hearing them on the next court day; they are similarly bound in the case of applications by private persons which refer to loans granted by the bank. In all such cases the decisions shall be announced without delay.

7. The books are to be kept in conformity with law XVI of 1840; extracts from the principal books and accounts signed by the directors are admitted as complete proof (of their contents).

8. Receipts, acceptances, orders, and drafts drawn in the form of promissory notes in the maker's hand-writing or letters in favour of the bank and signed by the maker shall, when the parties are in (business) relations with the bank, be admitted in full proof against the maker or his lawful heirs without the necessity for any legal visa or for the attestation of two witnesses or a certificate that the amount has been paid in cash.

9 and 10. (Relate to the probative force of the signature of persons in relation with the bank.)

11 to 15. (Repealed by law XLV of 1879.)

16. A property mortgaged to the bank and registered in a single survey folio may not be sold without the consent of the bank.

17 and 18. (Repealed by law XLV of 1879.)

19. When a loan has been granted by the bank, such loan shall not, without the consent or order of the borrower, be subject to any claim upon a guarantee, or to any distraint, or to any injunction on behalf of a third party, and the bank, so far as regards loans granted by it, is not bound to take notice of any injunctions whether by the judicial or by the revenue authorities.

The bank is bound to take notice of judicial execution or similar injunctions upon the deposits of private persons, so far as regards the return of the deposit note § (polizza di deposito); but even in this case the prior claim of the bank and especially the right of recouping its dues from the deposits shall not be affected when the bank has taken action against the owner of such deposit, save where the claim of the third party upon the deposit was in actual existence when the deposit was made and the bank had notice thereof at the time of making such deposit.

20 to 23. (Repealed by XLV of 1879.)

24. All the correspondence, whether received or despatched, of the bank with the district authorities shall be exempt from postal charges when the covers bear the seal of the bank and the endorsement "on land bank business."

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* That is, to all operations whether mortgage loans under the general law of 1852 or communal loans under this law.

† *See* pp. 77, 78 of Vol. I. The words 'land bank' or 'bank' will be used in the translation relating to this institution, instead of the somewhat cumbrous full name. The translation is taken from the Italian in the 'Bulletin relating to credit and providence' of the Minister of agriculture, &c., for 1888.

The laws and parts of the articles relating to the bank are translated or abstracted, because the case of this bank has been quoted by some authorities in favour of similar banks and of certain privileges for India.

‡ The commercial courts of Europe are peculiar to the continent; they deal with all commercial matters, usually in a cheap and summary way. It is hoped, if time permit, to translate certain laws on the subject in this appendix. There is no privilege—as wrongly supposed—in placing the bank under the commercial court; that is a right enjoyed by the bank in common with all other banks: the privilege of section 1 is that the bank may sue and be sued for any of its transactions in one particular court. The real privileges are found in sections 6, 7, 16, 24, 25 and 27 of this law.

§ Apparently this means that a person who has put in a deposit against a receipt shall not be allowed to withdraw the deposit and return the receipt if any court execution or injunction has been served upon the bank.

25. All applications (for loans ?) made to the bank shall be free of stamp duty. In other matters the bank is bound as regards stamp duty by sections 3 and 11 of law XVI of 1869.

26. The bank will deduct the income tax from the interest due on its debentures.*

27. So much of the annual profits of the bank as are allotted to the reserve shall be exempt from income tax. The bank must pay income tax in conformity with law of XXVI of 1869, section 2 (1), but only upon such amount as shall be due to "founders" as interest upon these founders' shares. †

28. The ministers of justice, of commerce, and of finance are charged with the execution of the present law.

LAW XXI OF 5TH JUNE 1876.

The conditions of law XXXVII of 1875 regarding societies are applicable with the following modifications to the Hungarian Boden-kredit Institute.

1. The following shall be members of the general meeting:—

(*a*) Those members of the bank who are indebted to the bank on a mortgage of at least 50,000 florins (rupees);

(*b*) Representatives chosen in the district meetings of such persons as are indebted to the bank on mortgages individually less than 50,000 florins, at the rate of one representative per 400,000 florins of mortgage debt;

(*c*) Foundation members.

2. One-half of the committee of supervision shall be triennially elected by the founders' meeting and the other half by the general meeting.

3. The committee of supervision, in addition to the powers granted to the audit committee (under the general law above mentioned), shall have the power of laying down rules for the conduct of business, of settling the number of directors, of appointing and dismissing the ordinary members of the directorate, and of agreeing with them, by regular contract, as to the conditions of employment. To this extent the committee is responsible to the bank.

4. The chairman of the directorate shall be selected by the general meeting from three names to be submitted by the founders' meeting.

5. Any proposal to alter the articles shall be submitted to the general meeting only when it has first been approved of by the founders' meeting.

A resolution modifying the articles must obtain the confirmation of Government before being put into operation.

A royal commissioner shall be appointed in view to insure the strict observance of the articles, but such appointment shall not in any way diminish the legal responsibility of the several authorities of the bank.‡

7. The ministers of agriculture, industry and trade, of justice, and of finance are charged with the execution of this law.

ARTICLES OF THE HUNGARIAN BODEN-KREDIT INSTITUT (LAND BANK).§

CHAPTER I.

1. The object of the land bank is to procure safe credit for landed property the owners of which are associated in mutual and unlimited liability (riunita in associazione sulla base della solidarietà); ‖ such credit shall extend to one-half of the value of the mortgaged property.

* * * * *

4. The bank shall be situated at Buda-Pesth.

CHAPTER II.

5. The members of the bank are the founders and the borrowers on mortgage.

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* This is obviously intended to give the debentures increased market value. The income tax is ordinarily due upon the interest received by the holders of securities, and is usually retained by the persons or firms, &c., paying such interest and accounted for to the revenue officers. In the case of this bank the income tax is not so retained, and the revenue officers have presumably to follow the fiscal dues by application to the receivers of the interest if they can find them, which is hardly possible where the debentures are "to bearer." Hence this privilege assists the popularity of the debentures.

† *See* Vol. I, pp. 77, 78 and 100, sections 5 to 10 of the articles translated below. It seems hard to tax founders who acted more or less philanthropically in taking founders' shares.

‡ The commissioner is apparently appointed by the ministers mentioned in section 7.

§ Only such articles are translated or abstracted as are of special interest.

‖ It is to be particularly noticed that the bank is not a joint stock, dividend-earning bank, but a mutual association of proprietors on the principle of unlimited liability as regards the ordinary members, while the founders being philanthropic and patriotic in their aims, content themselves with—for Hungary—the very moderate fixed interest of 5 per cent. on their *paid-up* capital (one-tenth of their guarantee) though they render themselves liable in the whole amount of their guarantee (ten times the paid-up capital) : in other words they run a very heavy risk for a return equal to only 0·5 per cent. on the amount guaranteed. All services moreover are gratuitous; hence the privileges with which the bank is to some extent endowed, *see* Vol. I, pp. 77, 78 and 100.

6. Founders * (soci fondatori) are those 209 proprietors who deposit in cash and bonds a guarantee fund of 1,677,000 florins (rupees) and whose duty is the organization of the bank on a sound footing †

7. Founders exercise their functions under these articles through the founders' meeting, the committee of supervision, and in the general meeting.

8. The smallest foundation share shall be 5,000 florins; a founder may subscribe for one or more shares. Ten per cent. of the sum subscribed by each founder shall be paid in cash and the remainder in nine bonds, each of which shall be equal to one-tenth of the subscribed amount. ‡

9. These nine bonds (deposited by each founder) shall be returned one by one to each founder in proportion as the reserve fund increases. When the reserve fund shall have passed the sum of half-a-million florins, exclusive of the 500,000 florins granted by the provincial (district) funds, or a total of 1,000,000 florins, and when this 1,000,000 florins shall show a further increase of 10 per cent. of the original foundation fund (section 6 *supra*), one bond shall be returned to each founder for every successive addition of 10 per cent. until all the nine bonds shall have been returned. The 10 per cent. paid in cash shall be held permanently in the reserve, and interest thereon shall be paid at 5 per cent.

10. Foundation shares shall not be transferable without the consent of the bank.§ If a founder dies, his share shall be entered in the name of such heir in the direct line as shall prove his title to the satisfaction of the directors. If there are several heirs, that one to whom the others give a proxy shall exercise the rights of member.

If there are no heirs in the direct line, the founders' meeting shall select the person admissible as legal heir. In this case, however, the value of the foundation share with interest shall be paid to such successor and the vacancy thus caused shall be filled up by a new founder to be approved by the founders' meeting.

If a founder becomes bankrupt, or if the bank has to levy upon his share amount by way of distraint, he shall finally lose his rights as a founder. In such case the founders' meeting shall, after repaying the share value, decide whether a new founder shall or shall not be admitted in his place.

11. The (ordinary) members of the bank are all proprietors who, being in possession of an estate within Hungarian territory, which is registered in the survey books and which is capable of providing security under these articles for a loan of at least 1,000 florins, shall have applied for and obtained a loan from the bank.

12. A person becomes a member (*a*) on obtaining a loan from the bank; (*b*) on acquiring an estate on which a loan has already been granted by the bank.

13. On acquiring an estate on which a loan has been granted, the acquirer must notify the bank of the fact within 15 days of the registration (of his acquisition) or of his taking possession; otherwise the directors may call in the loan as provided by section 75.

14. A member quits the bank (*a*) when, on the complete repayment of his loan, the bank returns to him his debt bond; (*b*) when the estate on which the mortgage loan was granted passes legally into the hands of a third person, and the original debtor obtains from the bank a declaration absolving him from responsibility for the debt.

Chapter III.—Authorities (Organi) of the Bank.

15. The bank authorities consist of (1) the founders' meeting, (2) the general meeting, (3) the committee of supervision, (4) the chairman of the boards of directors, (5) the board of directors, and (6) the district committees.||

*   *   *   *   *

34. The committee of supervision is charged with the duty of rigorously and continuously (senza interruzione) supervising the administration of the directors in such wise that nothing shall be done contrary to these articles or that may endanger the safety of the bank.

*   *   *   *   *

38. If a member of the committee of supervision or of directorate becomes bankrupt, he is considered to have vacated office.

*   *   *   *   *

48. *Local Committees.*—To assist in the work of the bank in the districts, local committees shall be established in every district or other area, consisting of members of the bank; these shall, in conformity with instructions issued by the board of directors, represent the bank in making valuations, paying dues, in testing securities, in making distraints, and in observing carefully the condition of the properties of the several members of the bank.

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* More properly "foundation members," for these members need not be the original founders, but holders by transfer, &c., of foundation shares.

† It will be seen from sections 6 to 9 that the founders take a risk of (say) 5,000 florins, and drew interest on 500: that is, the *sole* recompense for the risk they run, and the trouble they undergo in founding and in assisting to work the bank. Even 5 per cent. moreover is or was at that time (1863) below the market rate for investments in Hungary. Such banks can rightfully claim privileges such as the exemption from income tax; in fact there is no share income worth speaking of to tax.

Writing in 1884 from Buda-Pesth M. de Wagner stated that all the bonds had been returned to the founders.

Their liability is not unlimited as is the case with the ordinary members, but they are responsible only to the amount of their subscription, viz., cash *plus* bonds; when the bonds are returned, they are liable only for their cash contribution and for the amount of such bonds as may still remain with the bank.

‡ That is, each founder subscribing (say) 5,000 florins pays down 500 in cash and deposits nine bonds of 500 florins each for the remainder.

§ The reason is that the guarantee of the new transferee might be worthless. In mutual societies, which are enlarged *partnerships*, members are selected; they are not mere holders of shares.

|| The nature and duties of the several bodies here mentioned are sufficiently described in Vol. I, pp. 77, 78 and 100; hence articles 16 to 47 are omitted except 34, 38 and 48. Nothing is said in these articles about remuneration to directors and other authorities; it is elsewhere stated that services are gratuitous.

Except for very strong and good reasons, the validity of which shall be considered by the board of directors, every member of the bank is bound to undertake the duties above mentioned.

Chapter IV.—Business of the Bank.

49. The bank will grant loans either in cash or in land mortgage debentures.

50. Loans in debentures shall be made upon mortgages repayable by sinking fund as laid down in the following chapter.

51. Loans in cash shall be made when funds are available either on short-term mortgages or on bills or on (the deposit of) securities.

52. Short-term mortgage loans of three or six months at most, may be made (*a*) to members * whose estates are not mortgaged or otherwise charged up to one-half of their value as fixed by the bank; (*b*) to non-members who possess estates free of mortgage or other charges.

53 to 57. (The borrower gives a bond for a sum one-half larger than the credit to be opened to him; the bond amount must not exceed 30 per cent. of the value of the estate, or 50 per cent. with any prior debts thereon to the bank. Short-term loans may be converted into regular long-term loans with the issue of debentures. Loans must be paid up punctually, failing which the bank may proceed to execution against the debtor or may convert the loan into a loan with debentures.)

Chapter V.—Conditions of Mortgage Loans.

58 to 81. (Loans granted by means of land mortgage debentures must not exceed 50 per cent. of the value of the mortgaged estate, calculated either by actual valuation or at sixteen times the net income, as entered in the tax registers, less taxes and cesses. Loans may, as a rule, only be granted on estates free of prior mortgages or when the prior creditors yield their priority to the bank; where loans on estates with prior mortgages are granted, the aggregate with the bank's loan must not exceed the above 50 per cent., and the debtor must annually produce proof that he is regularly paying the dues on the prior mortgages, failing which the bank may call in its loan. The borrower may request the bank to pay off all prior debts from the proceeds of the loan granted by it. No loan can be granted on an undivided property held by several persons, unless all of them consent thereto. All fields (parcels) mentioned in a single folio (register entry, protocollo) of the land register must be made subject to the mortgage; single fields cannot be accepted. The borrower must regularly pay in advance his annuities comprising (*a*) interest, (*b*) sinking fund, (*c*) a charge for administration not exceeding 0·25 per cent. annually, (*d*) a contribution to the reserve. Any borrower falling into arrears without the prior consent of the bank must pay penal interest with an additional 1 per cent. contribution to the reserve if the delay exceeds 14 days; the bank may grant delays when the debtor has sustained losses from no fault of his own or in case of his death, interest at market rates being charged on the arrears. Within five days of default the bank may take out execution † against a defaulter, and may proceed both against the mortgaged property and against the other movables and immovables of the defaulter. The directors have the right of calling in the loan in the following cases: (*a*) when the borrower manages his property so negligently that there is danger of his becoming unable to pay his annuities owing to the deterioration of the estate; (*b*) when he fails to prove that he is paying the dues punctually on prior debts due on the estate to third parties; (*c*) when a private creditor takes out court execution against the bank's borrower and the latter is moreover in arrears with a half year's dues; (*d*) when the property charged with the loan, or part of such property is transferred whether *inter vivos*, or by succession to a third person who fails to accept the conditions of the bank's loan within a period fixed by the bank; (*e*) when the debtor does not carry out, within the prescribed period, the conditions agreed upon; (*f*) when the debtor is in arrears with three consecutive instalments, so that coercive process is necessary to obtain payment by calling in the loan and by proceeding the execution (as above) for the arrears. In the cases (*a*) to (*e*) notice of the recall may either be made either through the courts, or it may be made direct after three advertisements in the official Gazette; with six months from such notice or from such advertisement, the whole capital interest and other dues shall be payable. If the debtor objects to the notice, he must do so before the commercial court at Buda-Pesth. Should the debtor fail to repay his loan, &c., within the time fixed by the notice, the bank may either claim execution or may withdraw from circulation debentures corresponding to the loan, debit the defaulter with their value at the market rate of the day, and obtain collection of such sum by coercive process. ‡ If a debtor becomes bankrupt or when his property is sold at auction, the bank has the right of transforming its claims into a cash debt as above and to obtain execution. All costs for processes and appearances (in court) shall be at the charge of the debtor).

Chapter VI.

82 to 90. (Relate to the extinction of the loan by amortization, through fixed annuities, with the right of whole or partial repayment in advance, in which case the annuity may be proportionately reduced in amount the number of years remaining the same, or the annuity may remain the same, but the number of annuities may be decreased. After the extinction of (every) 1,000 florins of debt, the borrower may demand a corresponding diminution of the mortgage entered on the land register.)

Chapter VII.—Land Mortgage Debentures.

91. Land mortgage debentures are bonds by virtue of which the bank is bound to pay to the holder the principal therein mentioned together with interest on the conditions contained in the bonds. The bank has the right of repaying such debentures at par on six months' notice, but the holder does not possess the converse right of requiring repayment (at any given time).

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* It will be remembered that an ordinary member is one whose estate is mortgaged to the bank for a loan.

† The procedure is through the commercial or other court; *see* section 3 of XXXIV of 1871 translated *supra*.

‡ Execution and coercive process ('via esecutiva' and 'procedura esecutiva' appear to be synonymous terms and to be judicial or court processes under section 3 of the law.

92. The debentures must be properly signed and sealed, and must contain a declaration by the chairman of the committee of supervision that the sum secured thereby is guaranteed by mortgage debts (due to the bank).

93. The rate of interest shall be determined by the money market with a view to the advantage of the bank's borrowers. The debentures shall mention a period within which they must be repaid in lawful currency, with or without bonuses.

Articles 94 to 108 present no special interest: they lay down rules similar to those of other banks in Germany, Italy, and France; *see* translations *supra*.

Chapter VIII.—Rights of Debenture-holders.

109. The debentures of the bank are secured not only by the foundation capital and by the mortgages * against which the debentures are issued, but also by the mutual and joint liability (reciproca solidarietà) of the members.† With this view a special guarantee fund shall be contributed by these latter.

110. (The capital and interest of debentures must be punctually paid.)

111. The funds available to secure such repayment are the reserve fund (Chapter IX), the sinking fund, and the members' guarantee fund (Chapter IX).

112. For the information of the public the bank shall publish quarterly a balance sheet, a statement of the sinking fund accumulations, of the reserve, and of the members' guarantee fund.

113. If the bank does not meet its engagements with the debenture-holders, they have the right of proceeding to execution against the bank in the Commercial Court of Buda-Pesth, which in such cases shall take cognizance by summary oral proceedings.

114. Such execution shall first proceed against the special guarantee fund; after that is exhausted against the reserve: finally against the mortgages held by the bank: in this last case the amount levied shall not exceed that for which the mortgage was granted to the bank.‡

Chapter IX.—The Reserve.

115. The reserve comprises (*a*) the funds subscribed by the founders; (*b*) the 500,000 florins assigned from provincial (*quære* district) funds for that purpose; (*c*) the net annual profits of the bank; (*d*) the members' guarantee fund (articles 109 and 111).

From this reserve a sum amounting to at least one-twentieth of the value of debentures in circulation must be set apart and separately managed (as a special guarantee for the debentures).

116. The reserve may be invested (*a*) in advances upon land-mortgage debentures up to three-fourths of their market value and for terms not exceeding three months, with permission to renew; (*b*) in advances on other good securities quoted on the exchange and fully paid up to an amount and for terms as in (*a*); (*c*) in the discount of securities of not more than six months' échéance, approved by the directors and by the committee of supervision; (*d*) in the discount of bills with at least three signatures and for not more than three months; (*e*) in good securities bearing fixed interest and quoted on the exchange; (*f*) in immovable property.

(The conditions of the law of 19th June 1876, on land mortgage debentures, must be strictly adhered to in the matter of purchasing landed property from the fund specially securing such debentures. It appears that such property may only be obtained where borrowers fail to pay their dues.)

117 to 119. (Rules for term and other deposits. These are apparently inserted here as a means of providing money for current needs.)

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121. When the reserve shall have passed 1,500,000 florins, the general meeting shall decide whether the expenses of management cannot, either wholly or in part, be met from the interest accruing thereon, and whether the borrowers cannot be relieved from the payments due for such expenses.

122. The members' guarantee fund shall be accumulated from a contribution *ad hoc* by each borrower of 1 per cent. of the sums borrowed.

123. This amount shall be held as a deposit in favour of the depositor until complete extinction of his debt,§ and shall accumulate at simple interest; the interest upon such interest shall go to the reserve.

124 and 125. When the bank has sustained a loss which is not covered by that part of the reserve accumulated from profits, the deficit shall, in the first place, be made good from the members' guarantee fund, and each member must then make up the consequent deficit in the guarantee fund. Six weeks' notice shall be given of such demand and such notice shall be deemed compulsory.

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* That is, the mass of debentures are secured by the mass of mortgages: a particular debenture is not secured by a specific mortgage.

† 'Membri,' not 'Soci fondatori'; that is, of the ordinary members or borrowers, not the foundation members, who are merely liable to the amount of their subscription.

‡ The liability is then not actually unlimited, but is restricted to the total amount of the loan taken from the bank by a borrower, *i.e.*, the total amount for which debentures were issued. Hence, with ordinary care in valuations, the debentures are fully secured by the mortgages alone, especially as the liability extends not merely to the amount remaining due upon a loan, but, apparently, to the full original amount thereof.

§ Apparently the deposit is then returned to the depositor with the interest thereon, or credited to his last instalment.

CHAPTER X.—MISCELLANEOUS.

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128. The judicial privileges of the bank, its exemptions in the matter of taxation and postal charges are governed by XXXIV of 1871, XXI of 1876, and XLV of 1879.*

129. A Government commissioner shall supervise the exact observance of the articles, the authorities of the bank remaining legally responsible.

130, &c. (The remaining articles relate to liquidation: 135 provides for the restoration in such case to the Government of the reserve fund and of the foundation endowment to the founders.)

HUNGARIAN LAW OF 19TH JUNE 1876 RELATING TO LAND MORTGAGE DEBENTURES. †

(1) Land mortgage debentures may be issued (*a*) by joint stock companies, (*b*) by associations of proprietors with a view to provide credit; (2) the articles of such banks shall contain full rules for the grant of mortgage loans and the valuation of properties; (4) and each such bank must provide beforehand a reserve of at least 200,000 florins as a special guarantee fund for the debentures to be issued; (5) this fund shall serve as guarantee for the whole mass of debentures and shall not be liable to any sort of execution (save on account of the debentures themselves); (6) this fund shall be invested in land mortgage debentures, State paper, loans on such securities up to three-fourths of their value and for three months at most with renewals, discount of securities and bills, and in buying in immovable property mortgaged to the bank up to the amount necessary fully to cover the mortgage amount; (7) the part of the guarantee fund invested as in section 6 must be completely separated from the general funds and managed separately; (8) and a special entry must be made in the land register against immovables that the sums invested therein belong to the guarantee fund only; (9) all documents relating to such registration entry shall, as regards such registration, be exempt from charges; (10) when the property thus charged is sold to a third party, the registration entry *ipso facto* becomes void; (12) debentures may only be issued up to the amount of loans fully covered by mortgages; (13) that is, where the value of the mortgaged property is at least twice the amount of the loan, or three times in the case of vineyards and woods; factories and mines are not admissible as securities for a loan; (14) debentures shall be withdrawn in proportion to the repayment of the mortgage loans. The mortgages of a bank shall continue as charges on properties notwithstanding any forced sale of such properties by the bank, and shall serve as security for the debentures until the bank shall declare the charge to be extinct; (15) the value of debentures in circulation shall at no time exceed for each bank twenty times the amount of its special guarantee fund; (17) the mass of mortgages of each bank shall be the guarantee for the mass of debentures issued by it, and shall not be liable to execution (attachment); (18) this legal privilege shall be entered against each such mortgage in the land register; (20) this special entry shall *ipso facto* become null on the extinction of the mortgage; and (21) any documents presented at the registration office for the above entry or for the cancellation of the same shall, *in that respect*,‡ be free of stamp charges; (21 to 25) if any attachment is made against a bank, the court must appoint a trustee for the debenture-holders, but attachment is void against the funds entered in sections 4, 5 and 17 as securities for the debentures, and the court shall so decide even without hearing the opposite party on application by the trustee; (27) should a bank become bankrupt, debenture-holders must be satisfied before any other creditor from the funds mentioned in sections 4, 5 and 17; (28) the funds mentioned in sections 5 and 17 shall be kept separate and managed by a delegate of the debenture-holders; (29) the directors of a mortgage bank must publish half-yearly in a newspaper and in the Gazette a statement showing precisely (*a*) the nominal value of debentures in circulation, (*b*) the amount of the mortgage loans which, under section 17, serve as security for the debentures, (*c*) the value of the properties as estimated for the purpose of the mortgage loans granted on them, (*d*) the amount of the fund set apart, under section 4, as a special guarantee for the debentures and a statement of the modes in which the several portions of the fund have been invested as per section 6; (30) this statement must, within eight days from publication, be sent to the court having jurisdiction; (31) the holder or holders of debentures to the value of one-tenth of those in circulation may, on depositing the debentures and a sum for expenses, require the court having jurisdiction to arrange for an examination by experts of the management of the bank's business so far as relates to the debentures and for a report on the same; the court shall hold the debentures till such examination be concluded; (32) directors may be condemned by the proper tribunals to imprisonment which may reach three months, even when no offence under the penal law has been committed (*a*) if they knowingly issue debentures to a value greater than that of the mortgages, (*b*) if they wilfully omit to withdraw from circulation debentures to the value of mortgage amounts repaid, (*c*) if they knowingly publish incorrect facts in the statement required by section 29, (*d*) if they disobey the directions of section 6, (*e*) if the bank reduces the guarantee fund below the limits mentioned in section 11, (*f*) if a bank issues land mortgage debentures before creating a special guarantee fund as mentioned in section 4, (*g*) if a bank issues debentures beyond twenty times the amount of the special guarantee fund (section 15); the penalty of imprisonment may be commuted to a fine which may reach 1,000 florins, if there are extenuating circumstances; § (34) directors are also punishable

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* *See* translations of these laws *supra*. XLV of 1879 has, however, not been obtained.

† This law is of general application, and is not special to the Boden-kredit Institut.

The provisions are not fully translated for want of space; an abstract merely is given. The figures in brackets refer to the sections.

‡ That is, they shall be free of the duties levied by stamps for registration purposes, though they must pay the ordinary stamp duties due according to the nature of the document.

§ The penalty in Great Britain for issuing debentures when not entitled to issue them, or to an excess amount, is £500 for every such issue.

with fine which may extend to 1,000 florins (*a*) for delaying to obtain the registration entry mentioned in section 18 within the prescribed period, (*b*) for neglecting to nominate a trustee under section 23 should the court omit to appoint one, (*c*) for omitting to publish in due time the statement provided by section 29 or to send it to the court, (*d*) for omitting to provide that the special guarantee fund, so far as it is invested in movable securities, shall be separately managed.

THE MORTGAGE DEBENTURE ACT, 1865 (29 & 20 VICT., CAP. 78),

AND

THE MORTGAGE DEBENTURE (AMENDMENT) ACT, 1870 (33 & 34 VICT., CAP. 20).*

LAW OF 22ND FEBRUARY 1885 REGARDING REAL CREDIT (ITALY).†

1. Real credit shall be granted by the following eight banks (names given, including the savings bank of Milan). Each of these may operate throughout the kingdom.

The Government may sanction, by royal decree, the exercise of real credit by (any other) societies or institutions which have a paid up capital of £400,000, these may also issue land mortgage debentures (Cartelle fondiarie) up to the amount of ten times their paid up capital as soon as they prove their possession of mortgages to the value of half their paid up capital.‡

These mortgages shall be entered into without any corresponding issue of debentures, and as they are paid off their place shall be taken by other similar mortgages, or by an equivalent amount of debentures withdrawn from circulation, which are to be charged (vincolate, *i.e.*, as securities for the general mass of debentures) and kept in deposit in the bank.

As entered in section 9 of this law, all mortgages accepted by the banks, societies and institutions form preference guarantees for the interest on and repayment of the debentures. The debentures specially charged and deposited (paragraph 3 *supra*) form preference securities to guarantee the interest and repayment of the debentures in circulation (*See* rules 1, 2, 3 and 4 of the rules of business).

2. The Government may also sanction, by royal decree, the grant of real credit by mutual associations of proprietors, provided that the estates of such proprietors have an aggregate value of not less than £200,000. The articles of such association, which shall be approved by the said decree upon the motion of the Minister of agriculture, trade, and industry, shall lay down the conditions to be satisfied by such proprietors, and shall fix the amount of guarantee (reserve) fund, of the working capital, and of the fund intended to secure the debentures. These debentures shall not exceed in amount one-half of the value of the mortgaged properties.

The associations of proprietors may not depart from the provisions of this law as regards the conditions on which loans are to be granted and repaid, and the issue and repayment of debentures.

3. Every institution shall, in the cities mentioned in a royal decree, establish agencies in such wise as to facilitate the grant of loans, and to promote the development of real credit business.

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* These are the two Acts which "enable certain companies to issue mortgage debentures founded on securities upon or affecting land, and to make provision for the registration of such mortgage debentures and securities (title of the principal Act)."

The chief provisions of these Acts will be found in abstract on pp. 98 and 282 of Vol. I, and as the Acts are easily procurable it will be useless to burden this volume with full details.

Three points are however either insufficiently or incorrectly stated in Vol. I:

(1) Section 7 of the Amendment Act expressly provides that 'all' the registered securities shall be charged with the payment of the principal *and* interest due upon 'all' the mortgage debentures; hence a mortgage debenture is secured not by a particular mortgage, but by the mass of mortgages. Moreover by section 15 of the principal Act all debentures rank equally "without any preference one above another by reason of priority of the date of any such mortgage debenture or otherwise." Section 7 of the amendment also provides that the registered mortgage securities on which the debentures are founded "shall not be applicable to or available for any other purpose than the satisfaction of such principal money and interest." These provisions give each debenture an equal and unassailable financial position.

(2) Section 31 of the principal Act provides that a list of mortgage debentures shall be kept by the company, and that in this list shall be entered the name, address, and description of the person to whom such debenture is issued. Every transfer of a debenture shall be by endorsement (section 37) and must similarly be entered in a transfer register (and presumably in the original register), and until such entry the transferee shall not be recognized by the company (section 38). It is, then, clear that the debenture to bearer, which is the principal form of land-mortgage debenture in continental Europe, is not recognized by the British law; the British debenture is a security granted to an individual and probably used as a more or less permanent investment; the continental debenture is a readily transferable security regularly quoted on the exchanges

(3) As each debenture is to order only, and the holder of each is known, the cancellation of any debenture secured by a mortgage which has been repaid is effected by merely giving due notice to the holder entered in the company's register.

† This law merely governs the grant of organized real credit by banks, coupled with the privilege of issuing land mortgage debentures. Real credit is of course granted by private persons in the usual way under the ordinary civil law. *See* Vol. I, pp. 78–82.

‡ This of course means that they can then *begin* to issue debentures, not that they can issue at once to the whole amount of £4,000,000. For, as will be seen hereafter, the debentures are based on the mass of mortgages held by the bank, and can never exceed in amount the aggregate existing value of such mortgages (*See* Vol. I, pp. 79–80, 96–98, 282–283, &c.)

The quantity of mortgages here mentioned, viz., those to the value of half the paid up capital, are to form a special reserve, to ensure that the debentures shall be more than covered by the mortgages in existance: *see* next two paragraphs of this section.

Corporate bodies, such as savings banks, Monts de Piété, &c., may, with the authorization of Government, undertake the duty of such agencies.

4. The objects of real credit are as follows:—

(*a*) to make loans on the first mortgage of immovable property up to the first half of their value, repayable by sinking fund annuities; *

(*b*) to acquire by assignment and transfer debts on mortgage or with preferential rights, on the conditions indicated above, such debts being made redeemable by annuities (*see* rules 6, 7 and 8 of the rules of business);

(*c*) to effect the above operations by means of the issue of debentures, the face value of which shall be equal to the amounts lent to borrowers;

(*d*) to make advances by cash credits secured upon mortgage in the same manner as ordinary loans (*See* rule 9 of the rules);

(*e*) to undertake gratuitously the collection of dues on public securities, treasury bonds, bank bills, drafts on Government or local funds, and interest and dividends due by companies guaranteed or assisted by the State, provided that the proceeds of such collections are to be carried to accounts current or placed in deposit for investment in land mortgage debentures or for payment of annuities already due.

Land mortgage debentures may be issued at 4, 4½ and 5 per cent.

The existence of prior mortgages shall not bar the acceptance of mortgages by the institutions, provided that the value of the former added to the amount of the proposed loan or to the amount to be paid by reason of assignment or transfer of a loan, or to the amount to the advanced on a cash credit, shall not exceed the half or three-fifths of the value of the property mortgaged.

5. Loans are considered as first mortgages when they are granted for the paying off of prior debts, so that the mortgage given to the bank becomes the first mortgage (*see* rule 5 of the rules).

An institution may even make a loan before the absolute transfer of a prior right or mortgage by the owner of such claim, a sufficient sum being retained by the institution to cover any possible loss by the transaction.†

6. Loans may be of two classes (section 4)—

(*a*) loans repayable by sinking fund annuities which comprise interest, a contribution for commission and the expenses of management, the amount payable as taxation, and the sinking fund quota; this last must be such as to pay off the loan in a period not less than 10 and not more than 50 years;

(*b*) advances on cash credits secured by mortgage within the limits and under the rules laid down in the rules of business. Such advances may not exceed one-half of the value of the mortgaged property.

Loans are to be made in land mortgage debentures, cash credits in cash.

The interest on loans shall be equal to that payable on the debentures issued against such loan.

The interest on cash credits shall be variable and determined by the institution.

The interest, annuities and contributions due to the institutions shall be paid in cash, as also that due by the institution to the holders of debentures.

7. As commission and for the expenses of management due to the lending institution, borrowers shall pay, together with the interest or annuity, an annual contribution not greater than 0·45 per cent. of the capital sum lent; the borrowers must also bear all the costs of effecting the transaction.

Borrowers must also pay to the institution a further contribution of 0·15 per cent. which, by royal decree, may be reduced to 0·10 per cent. on account of dues to the State for stamp duties and registration, and for any State charges on the contract including those on the issue and circulation of debentures.‡

In the case of advances the payment of taxes is regulated by the ordinary law.

8. The payment of the interest, annuities, contributions, State dues, and instalments of capital, due to an institution shall not be obstructed by any attachment.§

The sums due on behalf of the above, shall, *de jure*, bear interest from date of échéance.

In case of arrears, even of a single instalment, the institution may at once demand payment in full of all sums due to it.

The debtor is at all times permitted to pay off in advance the whole or part of his debt; in such case, however, he must pay the contributions mentioned in section 7.

These contributions are as follows:—

On account of the institution a single payment of 0·45 per cent. of the amount paid in advance; on account of treasury dues the 0·15 per cent. shall, if only part of the loan is repaid, continue to be paid annually on the full sum originally lent as though no amount had been repaid in advance; should

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* It will be noted that all loans are of necessity to be repayable solely on the sinking fund annuity system; no loan is legal under the law which is repayable in lump at the end of a fixed term.

† It is obvious that there may be difficulties in paying off prior creditors; the cancelment or transfer of prior claims can only be effected on paying off such claims; on the other hand the bank cannot advance the amount needed for such payment until it has obtained its mortgage which, again, cannot be safely accepted except as a first mortgage, that is, *after* the prior claims have been paid off. The difficulty is met in this law by section 13, viz., by the system of double deeds, the one conditional, the other final, as in the French 'Crédit Foncier.'

‡ The above 0·45 and 0·15 per cent. are *annual* charges, and are based on the "*capital sum lent*" (del capitale mutuato); hence they are not only heavy in themselves, but form an increasing burden in proportion as the capital is paid off by the sinking fund; *e.g.*, when the principal is reduced the one-half of that lent the above annual charges will equal 0·90 and 0·30 thereof. The 0·15 per cent. is a composition paid in lieu of all stamp duties, registration charges, and the costs of debentures, but has nothing to do with other general taxes, such as the very heavy tax 'sulla richezza mobile.'

§ *Cf.* the similar provision for the French 'Crédit Foncier.' The attachment here alluded to means legal attachment as by court order or injunction.

however the whole amount be repaid, the contribution shall be reduced to one-fourth of the aggregate annual payments which would otherwise have had to be made,* and it shall be payable in a lump sum together with the principal.

Should the advance repayment be made in cash, the debtor must, in addition to the above contributions, pay the interest due between date of payment and next drawing of debentures; but the institution may repay to the debtor any profit obtained by the temporary investment of the sum received from the debtor.

The contribution mentioned in paragraph 4 *supra*, is also due in all cases in which, by reason of failure to carry out the contract or for any other cause, the institution has the right to require the immediate repayment of its debt.

It is permissible for the institution to refuse payments on account of debts when such payments are less than the amount of one annuity.

Repayments in advance, whether in whole or in part, may be made, at their face value, in debentures which bear interest at the same rate as the loan under repayment.

Whenever the borrower shall have repaid an amount equal to one-fifth of the original debt, such debt not exceeding £20,000, he is entitled to a proportionate reduction of the mortgage amount as registered.† Where the debt exceeds £20,000 the above reduction *plus* one-tenth of the remainder may be effected. The above reduction shall be made upon presentation to the registrar of mortgages of a declaration by the directors of the institution duly certified by a notary.

9. The mass of land mortgage debentures as issued shall be guaranteed by the mass of mortgages accepted, and the assets represented by the loans shall be preferentially charged for the payment of the interest and principal of the debentures, but such preferential charge shall not give a debenture holder any right except as against the institution.‡

The debentures are detached from a stub with counterfoils and shall bear date § according to the order of issue. They may be issued to bearer or to order (nominative) but both classes may carry interest coupons to bearer.

In case of the loss of debentures to order the provisions of the rules of business will apply.

Where coupons to order are lost or destroyed, the issuing institution shall pay their value to the claimant thereof, after the lapse of five years from échéance, should they not meanwhile have been presented for payment.

The payment of debentures in circulation is effected by means of half-yearly drawings by lot of so many debentures as correspond in value to the aggregate of the contributions to the sinking fund due by borrowers during the preceding half-year *plus* the amount of any repayment of capital made in advance in cash during the same half-year.

If the institution has in circulation debentures of several rates of interest, so many debentures of each rate shall be drawn as correspond in value to the aggregate of the sums proceeding from the loans bearing a similar rate.

So far as regards the holders of debentures the sinking fund quotas will be considered as collected even though not collected,‖ and to this no exception is permitted.

All drawings shall be public. Debentures when drawn shall cease to bear interest after the expiry of the current half-year.

10. Debentures may be accepted in pledge as security for advances by any credit establishment, within the limits fixed by its articles. They may be received at four-fifths of their market value by the institutions for real credit, up to the amount of the fund set apart for such advances.

The national bank may, in extension of the powers granted by the law governing it, make advances on the deposit of land mortgage debentures and may discount bills bearing only two signatures, if to such security is added a deposit or transfer of the interest coupons of debentures, as provided by its articles in the case of State paper.

11. From the net profits derived from its real credit business, an institution must set aside not less than one-fourth in order to form a reserve, until such reserve shall have attained the amount fixed by the rules of business (section 28 *supra*).

The remaining profits shall be disposed of according to the articles of each institution.

12. (Relates to special methods of obtaining the position of first mortgagor: the section refers to peculiarities of the Italian civil law.)

13. If the institution decides to grant a loan, it shall enter into a conditional contract with the borrower which shall have effect when,¶ after registration of the claim, the certificate of the registrar discloses no prior mortgage or charge.

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* That is, one-fourth of the annual payment multiplied by the original term of the loan; *e.g.*, on a loan of 20,000 lire for 40 years, the *annual* payment of 0·15 per cent. would be 30 lire; for 40 years this would aggregate 1,200 lire: if the whole loan is paid off in advance, say in the tenth year, the aggregate remaining to be paid would be 900 lire, one-fourth of which would be 225 lire.

† Apparently this means that the debt will be considered as £16,000 instead of £20,000, so that there would be an important reduction in the annual charges mentioned in section 7. Or it may mean that the mortgagor is entitled to the liberation of one-fifth of his property from the mortgage: *see* the new rule in section 40 of the law of 1890 *infra*.

‡ Although a mortgage loan is issued solely in debentures (section 6) which, in fact, represent the loan, such debentures are not specifically charged on that particular mortgaged property, but only on the mass of mortgages; hence the holder of a particular debenture has no lien upon any specific estate, but only on the assets of the bank of which the whole mass of mortgages form part (*see* history of these debentures on pp. 48 and 49 of Vol. I; also pp. 79–80, 96–98, 282–83, &c., of the same).

§ This does not mean 'priority,' all debentures whatever their date, take equal rank as charges on the bank's assets, and share equally in case of liquidation.

‖ That is, for the purpose of withdrawing debentures, sums due, but not collected, will be considered as collected, *see* rule 36.

¶ Dopo che, &c.—Apparently this means that the conditional contract shall become final when the certificate discloses no prior claims. If such prior claims are discovered, it probably becomes null and void, as in the French 'Crédit Foncier.'

When such is the case the institution shall proceed to the execution of the fianl contract, and shall issue to the borrower, against his receipt, the corresponding value in debentures.

On the presentation of the copy of the final deed, the registrar shall, on the margin of the previous entry, note the payment with the issue of debentures.

For the purposes of the public taxes and of the payments due to the notary and the registrar, the (whole of the documents shall be considered as those of a single transaction, and the registrations as a single registration).

14. Mortgages registered in favour of an institution (for real credit) shall be valid notwithstanding the failure (bankruptcy) of the mortgagor, when registration has been effected not less than ten days before the order in bankruptcy has been published, even though the order places the date of stoppage of payment at some prior date.*

15. The registration of mortgages accepted by or transferred to an institution (for real credit) shall be renewed by regis rars of mortgages as a matter of course.†

16. (The heirs and successors in any way of a borrower must notify their succession to the bank; failing such notification the bank preserves its rights against the original borrower.)

17. The funds of incapables, minors, married women, and, generally, all those required by the law, by agreement, or by will to be invested in mortgages, the purchase of immovables or otherwise, may be invested in land mortgage debentures.

18. The provisions of the Penal law relating to the offences of alteration, fraud, fabrication, or falsification of State securities, shall apply to land mortgage debentures.

19. Land mortgage debentures, the interest thereon, and cash credits shall not be distrainable.‡

20. The books and registers of an institution (for real credit), kept according to the articles thereof, and extracts from the same, shall form complete proof (*piena fede*) both against its debtors and against third parties.

21. For the recovery of its annuities an institution shall be permitted to proceed against its debtors in arrears by the same methods as those used by the State in the collection of direct taxes, so far as regards movables.§

22. (Omitted.)

23 and 24. (Provides certain modifications of the ordinary law in proceedings for expropriation; the only one of general interest is [23(*f*)] that the institution has in all cases of the sale of mortgaged property, whether the sale is the result of its own proceedings or those of third parties, the right to demand from the sale purchaser, the full amount of its claim with all expenses within 20 days; *Cf.* the French Crédit Foncier rule. Should the sale purchaser fail to comply with this condition, he is to be compelled thereto by every lawful process, including the resale of the property at his risk and charges. This provision is intended to evade the interminable delays caused "by the slowness of the ordinary law, the hair-splitting (sofismi) of the pleaders, and the dilatoriness (lentezze) of the judges" [Commentary of Professor Rabbeno].)

25. The privileges of procedure, &c., granted by the present law to favour business in real credit shall be equally granted when the property mortgaged belongs to districts, communes, or other public bodies.

26. The statements of real credit operations and of the progress of an institution shall be made public, according to the provisions of the rules of business (section 28).

27. Institutions granting real credit are placed under the supervision of the Minister of agriculture, industry and trade, who shall exercise such supervision in the manner laid down by the rules (section 28).

28. A set of rules to be approved by royal decree shall provide for the due carrying out of the present law.

It shall in particular provide for—

(*a*) the form and face value of the land mortgage debentures, which shall in no case be less than £4 in value;

(*b*) the rules to be followed in the issue of debentures, in their withdrawal, cancelment and destruction, and in the issue of duplicates in the case of debentures to order which have been lost;

(*c*) the quality and condition of properties accepted on mortgage; the rules for ascertaining their value, the necessity and special conditions for assuring mortgaged factories against fire;

(*d*) the methods and periods in which borrowers must inform an institution of any changes which may happen to mortgaged property, whether in the way of decrease of value, disturbance of possession, or injury to rights;

(*e*) the rules to be followed in opening cash credits, and the limits and chief conditions of advances.

(*f*) the rules for the investment of the reserve fund;

(*g*) the limits and methods of the Government supervision.

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* This alludes to certain provisions of the Commercial code in sections 708 and 709 thereof, by which fraudulent dispositions of property to evade creditors in bankruptcy are null and void, a rebuttable presumption of fraud arising when, subsequent to the date of stoppage of payment, pledges or mortgages of property are granted by the bankrupt.

† That is, it shall be the duty of the registrar to carry out the decennial renewal of registration required by the law without any application from the bank, so that the latter is relieved from all care in the matter, the responsibility being thus thrown on the registrar.

‡ *See* corresponding provision in the law of the French 'Crédit Foncier'; several of the Italian rules are obviously borrowed from the same law.

§ *See* extracts from the law of 20th April 1871, elsewhere translated.

RULES OF BUSINESS (24TH JULY 1885) UNDER THE LAW OF 22ND FEBRUARY 1885, ITALY.

1. *Authorization.*—Societies and institutions* desirous of permission to grant real credit, must present an application to the Minister of agriculture, industry and trade (with copies of the resolution of the general meeting, articles, &c.; the Minister may also demand any other documents necessary to satisfy him).

2. A royal decree authorizing the grant shall issue on the motion of the Minister after it has been ascertained that the requirements of the law have been fulfilled.

The issue of land mortgage debentures shall be authorized by a separate decree when the bank has proved its possession of mortgages equal in value to half of its paid up capital.

3. With the application for leave to issue debentures must be sent in a list of the mortgages held by the bank (giving all the chief details of each mortgage).

4. The Minister has the right to inspect the agreements in case of all loans called in (denunciati), whether in possession of the bank or any public official (*e.g.*, a court).

5. Mortgage loans in cash up to the amount of half the capital may be repayable by annuity or in lump. If repayable by annuity the provisions of section 7 of the law relating to taxes, stamp duties, &c., are applicable; they are otherwise governed by the general law.

6. *Business.*—Banks for real credit can only lend on immovable property which furnish an income accepted by the bank as certain and lasting for the period of the loan.

Immovable property used for industrial purposes can only be accepted at its actual value independently of its special use.

7. Factories mortgaged for a loan must be insured against fire at the expense of the borrower.

The loan deed must contain an assignment to the bank of the right to receive direct the insurance amount; this assignment must be notified to the insuring office.

Banks may require that the insurance policy shall be made out in the name of the bank, and that the premia shall be payable by it. In such case the premia shall be added to and paid with the annuity, due by the borrower.

Any sums payable by the insuring agency as an indemnity for damage or destruction, and those payable by reason of a forced acquisition of the land for public purposes or of a servitude imposed thereon by the law, shall be paid over to the bank and credited towards the debt as an advance payment.

Any indemnity paid by an insurance agency may, with the consent of the bank and on due security, be handed over to the debtor for the purpose of repairing the loss or damage.

The above conditions apply to all other classes of insurance effected on immovables.

8. Every change which brings with it a decrease in the value of the estate, as also every act by third parties which disturbs the debtor's possession or disputes his rights, shall be notified by the debtor to the bank within one month of such change or dispute.

In such cases the bank may, if necessary, proceed to a fresh valuation of the property at the debtor's expense, and may demand a further mortgage of the payment of the loan as per section 1980 of the Civil Code and may also proceed against the debtor as per section 1234 of the said Code.

9. (Mentions the general law governing cash credits and cheques, viz., Chapters XI and X, respectively of the Code of Commerce.)

10. Real credit banks authorized by this law must prohibit by their articles the acquisition by themselves of immovable property except such as may be needful for the location of these offices, and such as they necessarily acquire as security for loans already entered into.

Whenever a bank acquires immovable property as security for a loan, whether by assignment or by purchase at auction, it shall sell the same within 5 years.

11. *Issue of debentures.*—Loans are made in debentures. Real credit banks may only issue such debentures for a face value equal to that of their loans granted under section 4 (*a*) and (*b*) of the law.

The banks may undertake the sale of the debentures on account of the borrower, with or without the charge of commission.

12. Debentures may issue at 4, 4½ or 5 per cent. interest in separate series.

13. If debentures are contemporaneously issued at more than one rate, a borrower may select the rate at which the debentures for his loan shall issue. The interest payable by him shall equal the rate payable on the debentures.†

A debtor may demand a fresh loan at a lower rate in order to pay off his prior loan at a higher rate. The banks shall determine the conditions of such conversion.

14. Interest on arrears (section 8) shall not exceed the legal interest as per section 1831 of the Civil Code.

15 to 17. (Debentures shall be taken from a stub; shall be serially numbered, dated, signed, and stamped; shall be of a pattern approved by the Minister of Agriculture, &c., and shall each be £20 in value. But they may be exchanged for coupures, of £4 each, bearing the number, &c., of the original debenture which shall be kept in deposit.)

18. Debentures may be to bearer or to order; the latter may be furnished with interest coupons to bearer. The coupons must bear the serial number of the debenture. A new set of coupons shall be issued when the prior set has been exhausted.

19. Debentures to order may be transferred to other names, and both those to order and those to bearer may be transformed under the following rules into debentures of the other class.

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* The word 'bank' will be used in this translation to mean any society or institution granting real credit.

† Debentures issued at the lower rates of interest may be saleable below par; hence a loan issued in such debentures may be no more profitable to the borrower than a loan in debentures bearing a higher rate.

20 to 24. (Contain rules for transfers and transformations, and are of an ordinary character, not requiring translation.)

25. Every bank must keep a register for such transfers and transformations.

26. Declarations relating to the loss, theft, or destruction of debentures to order with coupons also to order, must be made to the bank of issue and to the office where the coupons were ordinarily paid, by the owner or his representative, with a request to suspend payment of the interest and to issue a duplicate.

27 to 29. (Advertisement to be published of the alleged loss, &c., with a notice that within six months a duplicate will be issued unless objection is lodged into the bank; at the end of that time the notification is to be carried out, unless such objection is lodged, when the bank shall suspend action pending a court order or the agreement of the parties.)

30. Where the lost, &c., debenture to order carried interest coupons to bearer, the above rules shall apply but in no case shall the bank suspend payment of the coupons.

The duplicate debentures shall be deprived of the interest coupons up to the date of the coupons on the lost, &c., debenture.

31. (Omitted.)

32. When once a duplicate has been issued and the old one cancelled (*i.e.*, the stub from which it was originally taken) no further objections will be admitted, and no orders or injunctions will affect the bank.

33. (Omitted.)

34. Every proceeding taken in the matter of the loss, &c., of a debenture to order shall be entered in a list posted up in a public place in the chief office of the bank and in every sub-office or agency, together with details of the debentures in question.

35. In case of the loss, theft or destruction of debentures to bearer, sections 56 and 57 of the Code of Commerce are applicable.

36. *Repayment of debentures.*—At the beginning of every half-year as many debentures shall be repaid at par as correspond to the amount of the sinking fund due—even though not actually paid—by borrowers during the previous half-year *plus* (1) the amount paid in cash during the half-year as repayments in advance including capital recovered by the bank by proceedings in expropriation or covered by properties bought in by the bank ; (2) the amount of any losses.

37. With this view the bank must within eight days of the close of the half-year prepare a statement in form A showing for each mortgage loan (1) its original amount ; (2) the year of the agreement ; (3) the year in which repayment would be complete ; (4) the amount of a half-year's sinking fund dues ; (5) the amount repaid in advance (during the half-year) in debentures, if any ; (6) the amount repaid in advance in cash, if any ; (7) the losses incurred, if any.

A statement of this nature must be drawn up for each series of debentures.

A copy of the above statement, duly signed, is to be sent to the Minister of agriculture, &c., but the several loans are to be indicated not by the names of the debtors but by their serial numbers in the register or ledger.*

38. The Minister has the right of verifying the correctness of the above statements.

39. Columns 5, 7 and 8 of form A when added together show the value of the debentures to be drawn.

40. Debentures are drawn by lot for repayment. (The rules are of an ordinary nature; all numbers are kept in a sealed wheel, to which are added, in presence of a Government delegate, the numbers of those issued in the half-year; the Government delegate must also be present at the drawing, which is to be public.)

41. The debentures drawn will, on production, be paid in cash at par in the following month, and will bear no interest subsequent to that of the half-year in which the drawing takes place.

42. Debentures presented for payment must bear the interest coupons not yet due. The value of any missing coupons will be deducted from the value of the debenture, but the bank will in that case pay the coupons whenever presented.

43. (Repaid debentures are to be at once cancelled, and eventually destroyed in presence of the Government delegate.)

44. (Omitted.)

45. Debentures paid into the bank as repayments in advance and any others which have passed out of circulation, shall at once be cancelled and eventually destroyed.

46. Interest coupons shall be payable half-yearly, but may also be issued for quarterly payment.

The debenture need only be presented for the payment of interest when it is made 'to order' and with coupons 'to order.' In such case the coupon to be detached must be endorsed by the payee.

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* Form A is as follows :—

Serial number.	Required amount of the loan.	Year of contract.	Year of close of payment.	Amount due as half-year's sinking fund.	Amount repaid in advance in debentures.	Amount repaid in advance in cash.	Losses made good.	Value of debentures to be drawn (5 + 7 + 8).
1	2	3	4	5	6	7	8	9
Total ...								

47. Coupons paid must be marked with a cancelling stamp.

48. (Omitted: relates to loans made in cash.)

49. *Reserve fund.*—The one-fourth of the net annual profits, set aside for the formation of a reserve, shall be deducted from the profits in the case of banks with a limited issue of debentures until the reserve shall reach the amount of at least one-fifth of the paid-up capital.

In the case of other banks (where the issue of debentures is not limited) the reserve must accumulate till, together with any guarantee fund, it shall reach the sum of one-tenth of the value of debentures in circulation, and shall be maintained at that proportion. The reserve fund shall be invested in securities issued or guaranteed by the State, and in land mortgage debentures issued by some other bank.

50. *Government supervision.*—Banks which grant real credit are, on that side, placed under the supervision of the Minister of agriculture, industry and trade, who exercises it by means of delegates.

51. The delegates have the right of inspecting all the books and documents relating to the grant of real credit.

52. The banks are bound to despatch to the Minister the resolutions of their directorate within eight days after each meeting.

The Minister can, upon reason stated, declare within ten days of such despatch the cancelment of any resolutions which may be contrary to law or to the rules, giving notice at once of such declaration.

53. The supervision shall be so exercised as to prevent the banks from undertaking any operations other than those permitted by the law. The supervising delegates are specially bound—

(*a*) to verify the existence of as many mortgage loans made in cash as represent the half of the paid-up capital, as per section 1 of the law and the present rules;

(*b*) to take care that the debentures are only issued on account of mortgage loans and to a corresponding value;

(*c*) to verify the correctness of the entries in the statements referred to in rules 37 and 48, and the value of the debentures to be drawn;

(*d*) to be present at the placing of debenture numbers in the wheel and at their withdrawal, as per rule 40;

(*e*) to ascertain the cancelment of all debentures drawn by lot, or paid in by way of advance repayments, or withdrawn for any other reason;

(*f*) to be present as required by rule 43 at the destruction of all cancelled debentures;

(*g*) to ascertain at the end of each half-year the value or cash loans and of charged debentures as per section 1 of the law and rule 48.

The Minister may also delegate a public official, chosen, at the request of the Minister, by the prefect of the province (Collector of the district), to be present at the operations mentioned in (*d*) and (*f*).

54. Land credit banks must send to the Minister of agriculture, &c.—

(1) a statement of their financial position at the end of every two months;

(2) the annual balance sheet at the close of every year;

(3) a special statement of the loans in arrears and in dispute at the close of every year.

These statements shall be made out in forms C, D and E.

55. (Omitted.)

56. A royal decree shall determine the annual contribution to be paid by each such bank as costs of supervision.

LAW RELATING TO REAL CREDIT (ITALY), 17TH JULY 1890.*

1 to 26. The bank is to have a capital of £4,000,000, of which half, or if the existing banks do not join it, three-tenths are to be paid up before beginning work; the remainder by instalments.

The privilege of the exclusive exercise of real credit under the special laws is granted to it for 15 years, the rights of existing banks which grant real credit under the laws being saved. The sole duty of the bank is to be the grant of real credit, loans being financed by the issue of land-mortgage debentures.

The own capital of the bank is to be invested in mortgages granted in cash under the rules of the law of 1885, and it shall thereupon issue debentures; the total issue of the latter shall not exceed 10 times the paid-up capital. Capital not immediately laid out in loans shall be invested only in State paper, land mortgage and agricultural debentures (*see* Law of 1887 and rules thereon for these last securities in the chapter on 'Crédit Agricole' in this volume). The guarantee and reserve fund shall be wholly invested in mortgage loans made in cash without any corresponding issue of debentures, in cash, or in the securities mentioned in the preceding sentence.

The annual net profits are to be divided as follows: 5 per cent. to the reserve till the latter reaches one-fifth of the paid-up capital; a dividend to the shareholders, not exceeding 6 per cent.; 25 per cent. of the remainder to the State, another 25 per cent. to the reserve until it reaches the limit mentioned, and the remainder as shall be decided by the general meeting.

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* This is the newest Italian law; that of 1885 did not meet with full success, and it was decided to attempt the grant of real credit throughout the kingdom by a single institution, founded by private capital, but with additional privileges, safeguards, and supervision; but also with the proviso that if not successfully started both as to capital and the grant of loans, within three years, its special privileges should cease.

The leading idea was that the new bank should, if possible, absorb the existing eight land banks, and take, in Italy, the place of the great Crédit Foncier in France; for this purpose the law grants it the exclusive right, save that of the existing banks, of exercising organized real credit under the special laws (1885 and the present one) throughout the kingdom for 15 years, its operations, in general, following the provisions of the law of 1885 (*q.v.*). It is believed that the anticipations of the legislature have not been realized.

At the same time the opportunity was taken of making new provisions for land banks in general, supplementary of the existing law. (*See* Vol. I., p. 82.)

The law relating to the new bank is not of sufficient interest for translation; a mere abstract will therefore be given of that part. Some of the sections supplementing the existing law will be translated in full.

The whole assets of every description guarantee the debentures, but debenture holders can proceed only against the bank.

The amount and method of Government supervision (sections 14–19) shall be determined by the decree authorizing its foundation, read with the provisions of the law of 1885. Sections 15 to 19 provide various safeguards for the inspection of and resort to the Government authorities, notably the right of the Minister of agriculture, trade, &c., to deal with breaches of the law or articles by the bank officers, and that of persons holding 5 per cent. of the debentures to obtain an enquiry.

The existing land credit banks may—but are not bound to—unite with the new one, which will then assume the loans and debentures of the other banks as its own.

GENERAL PROVISIONS.*

27. The following provisions shall be applicable to the national bank for real credit, and to the various real credit banks in Italy which operate under the law of 22nd February 1885.

28. (Relates to precautions necessary when mortgages are assigned to the bank; the transferer must signify that he has transferred all his rights to the bank; notice of this must be sent to all other registered creditors of the property, and duly published, and if within 40 days of such publication no opposition is made to the trausfer, any subsequent objection shall be absolutely barred.)

* * * * *

34. Where a debtor is in arrears with his half-year's dues, the bank may, before proceeding to coercive process, demand to be placed in possession of the property, the debtor or other person lawfully in possession being summoned before the court having jurisdiction. The order of the court thereon shall be final and without appeal.

During such possession the bank shall, notwithstanding any attachment or hypothecation resulting from the claims of other creditors, collect all the rents and produce of the property, and, after deducting the expenses of management aud the rates and taxes, shall apply them in satisfaction of the arrears and costs then or thereafter due.

The bank shall draw up an annual account of the same.

Such possession shall cease should the bank or any other creditor institute proceedings for the sale of the property by a court attachment, or when the arrears are satisfied.

* * * * *

36. When an estate mortgaged to a bank for a loan has been forcibly sold, the purchaser may take the benefit of the bank's loan to the former owner, provided that within 15 days from the date of confirmation of the sale, he shall pay the annuity due together with all costs, and provided that the price at which the estate was sold was above two-fifths of the amount of the debt still due to the bank, or that the purchaser pays down such amount as shall reduce the debt secured by the property to three-fifths. The purchaser in such case undertakes the obligations of the former borrower.

Should the purchaser not accept the above conditions, the rules contained in section 23 (*f*) of the law of 22nd February 1885 shall be applicable.

37. (The banks may issue debentures at 3½ per cent. A bank may stipulate with a borrower that the tax 'di richezza mobile' † chargeable on the interest of the debentures issued against his loan, shall be payable by him.

This extra charge shall only be payable when the debentures are issued at 3½, 4 or 4½ per cent.

38. The banks may always withdraw from circulation and repay their debentures, whether drawn by lot or not, and issue in their place debentures at a lower rate. Repayment shall in such cases always be at par.

When such conversion includes all the debentures of a particular series, all the debts against which such debentures were issued shall, within two years, be granted a corresponding reduction of interest; if only a part of such debentures are converted, a proportionate reduction shall be granted to all the debts which correspond to all the debentures of the said series.

* * * * *

40. In amplification of the right granted in the last paragraph of section 8 of the law of 1885, borrowers shall have the right of obtaining the liberation from the mortgage of one or more of the specific items chargeable with the mortgage in proportion as repayment is effected, provided that the remaining items properly secure the rights of the bank for the remainder of the loan.

41. If within one year from the date of the present law, the new bank shall not have regularly begun to grant real credit, the conditions of the law relating to the new bank, and the limitation of the area of operations of the other banks shall be of no effect.‡

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* These apply not only to the new bank, but also to all other banks granting real credit in Italy, under the law of 1885: they modify and supplement the provisions of that law.

† This is a very heavy tax not merely on incomes, but on the proceeds of all deposited or funded capital; it amounts to as much as 13·70 per cent., *e.g.*, on State paper paying 3½ per cent. interest, about ½ per cent. of the interest would be deducted for this tax, so that the investor would get only 3 per cent.; similarly the holder of a debenture bearing 3½ per cent. interest would receive only 3 per cent. Hence in order to attract purchasers of the debentures issued at low interest, the new law provides that the borrower may be required to pay the tax, a condition which adds ½ per cent. per annum to the cost of his loan.

‡ Certain rules in accordance with the law have also been issued by royal decree of which the following alone are extracted:—

19. At the head-quarters of the (new) bank a royal commissioner shall be appointed on the motion of the Minister of agriculture, &c; for the purpose of exercising the supervision provided by the law of February 1885 and its rules, and by the law of July 1890 and the present rules. The bank must pay to the treasury on account of the costs of supervision, such annual sum as shall be ordered by decree.

20. Besides the special rules to be laid down in accordance with section 14 of the law of July 1890, the rules for supervision laid down in Chapter VI of the rules of 24th July 1885 shall apply; the Minister of agriculture, &c., shall always have the right of ordering extraordinary inspections of the bank.

21. The commissioner shall see that the conditions of section 3 of the law are observed with regard to the gradual payment of the capital and the proportion between the same and the debentures issued. At every new issue of shares a statement shall be sent to the Minister showing the value of debentures in the safe and those in circulation.

LAW RELATING TO THE MORTGAGE BANK OF CANTON BERNE (SWITZERLAND).*

1. The foundation capital of the bank consists of contributions by the State which shall never fall below £280,000.

This capital shall be augmented—

(1) by repayments made on account of State paper;

(2) by contributions from the domain's office.

2. The business of the bank comprises—

(1) loans on mortgage;

(2) advances upon deposit of mortgage deeds, and the purchase of good Swiss securities;

(3) the receipt of deposits at interest.

The grand council (of State) may extend the operations of the bank.

(The bank is also charged with other financial duties connected with the administration of the State).

3. *Mortgage loans.*—The bank will only lend on first mortgage of immovable property within the Canton, and, in general, only up to two-thirds of their value as ascertained by survey.

(In special cases loans may be granted up to three-fourths of the value.)

The bank will, above all, devote special attention to small proprietors and to small loans, and to cases where the borrowers intend to apply the loans in cancelment of prior debts.

The maximum loan is fixed at £2,000.

4. The bank will grant loans (1) on the execution of mortgage deeds, (2) upon the transfer to itself of mortgages already entered into.

5. (The candidate for a mortgage loan must furnish an exact statement with full details, of the borrower, the purchase value, extent, class of cultivation, charges, &c., of the property, the insured value of the buildings, the original price of the property, the survey value of each item, and any charges or burdens [sections 2103, 2121, 2135 of the French Civil Code] † on the property; in surveyed communes survey numbers and areas are to be entered).

6. The candidate must send to the council of the commune in which the property is situated the above statement together with an application to the bank showing the amount and proposed outlay of the loan sought for.

The council will complete the above statement by a certificate—

(1) that the candidate is in possession of full civil rights; should this not be so, the name of his guardian must be entered;

(2) that the property has been truly described; should this not be so, or if the council is aware of other burdens thereon, it must correct or complete the description; it must also add, when necessary, whether the property is especially exposed to damage or loss of value by reason of natural accidents;

(3) that the property is not burdened otherwise than by certain family charges; any error or omission on this point must be corrected;

(4) that the candidate is believed in the commune to be the owner of the property;

(5) that the survey value is exactly entered and that since the last valuation for the land tax nothing has happened to materially diminish the value of the property. Should such diminution have occurred the present actual value should be stated;

(6) that the certificate of the council has been verbally transcribed in the register kept for the purpose in the commune.

7. The commune is responsible to the bank for the consequences of any fraud or negligence by the communal council in the carrying out of section 6.

8. If the property is situated in more than one commune the candidate must obtain a similar certificate from each such commune.

9. The candidate will transmit the above statement and certificate to the registrar of mortgages, who will add thereto a further certificate showing precisely—

(i) the title of the candidate and the date of its confirmation. The registrar must compare the details of the statement relating to the property and of the communal council's certificate with the land registers, and note in his certificate any differences. If there are such as to cause any doubt, he must address the communal council for the clearance of such doubts;

(ii) any outstanding mortgage charges or rights of third parties chargeable on the estate, with the names of such creditors or parties, and the nature, date, and amount of such charges.

The registrar is responsible for any fraud or negligence on his part in carrying out the above provisions.

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* *See* pp. 85–87 of Vol. I. This is a State bank pure and simple; the Canton, with a population of about 537,000, has a complete and independent government, with all the paraphernalia and staff of a large State; hence its ability to work a State bank. The use made of, and the responsibility thrown on, the communes and the registrar of mortgages, are noticeable.

† Section 2103 relates to preferential rights (privileges) over immovable property, due to the vendor of such property for the price paid, to any one who has lent the money for the purchase thereof, to architects, contractors and workmen employed to construct a building, canal, &c., and to any one who has lent money to pay such workmen.

Section 2121 relates to 'hypothèques légales,' or claims at law on behalf of married women over their husband's goods, of minors and incapables over the goods of their guardians, and of the State, communes and public institutions over the goods of their collectors and cashiers (or treasurers).

Section 2135 lays down conditions regarding 'hypothèques légales' of the first two classes.

10. The candidate shall then transmit the various documents through the registrar to the office of the bank, which shall submit them with a report to the directors.

11. The registrar must draw out the mortgage deed (for the candidate) in proper legal form and send it to the bank.

12. The amount of the loan is paid to the borrower through the registrar of mortgages. That officer will immediately copy the mortgage deed into the mortgage registers, and will take heed as to the liberation of the property from all prior mortgage claims or rights, and as to the carrying out of any conditions attached to the loan, after which he will send the mortgage deed with all necessary certificates to the bank. The registrar is responsible to the bank for all consequences resulting from any delay in the transcription of the deed, for the due liberation of the property from any prior rights or concurrent claim which might affect the bank's mortgage, and, in general, for any deviation from the conditions laid down.

13. Mortgage deeds in favour of the bank are not subject to the decennial renewal of registration required by section 2154 * of the French Civil Code, and the mortgage will retain the rank which it took at registration.

14. Mortgages and charges (in existence) may be assigned to (and accepted by) the bank when they present the security required by the present law, and when the mortgagor agrees to pay the capital and interest as therein laid down. A mortgagor may demand that his mortgagee shall, upon the expiry of the notice period entered in the deed, assign the mortgage to the bank.

For an assignment of this nature it is only necessary that the mortgagor should address to the bank an application showing precisely the nature of the mortgage, &c., proposed to be assigned, together with the name of the creditor, the immovables pledged as security for the loan, the amount of such loan, and the value of each item as entered in the tax registers. The communal council must add to this application a certificate as to the correctness of the entry regarding the survey valuation. Where buildings are insured against fire, the secretary of the prefect's † office must certify as to the correctness of the entry relating to the assurance.

15. The rate of interest charged by the bank shall exceed by at least 0·25 per cent. the rate payable by the bank upon deposits.

16. The bank shall charge on each loan a commission payable once for all, for the cost of enquiries relating to the loan.

17. Loans made by the bank are repayable with interest by the annuity system, each annuity (including interest) being not less than 6 per cent. of the loan. The debtor may at any moment pay up the whole or any part of the capital.

Interest at the rate of 5 per cent. will be charged on arrears (*i.e.*, sums not paid within 14 days of due date).

18. The bank can only require the (immediate) repayment of a loan in full in the following cases:

(1) when the debtor has failed to pay one or more of his instalments within three months from the date when notice of the first step in proceedings against him, has been duly notified to him;

(2) when the property has been alienated without its consent;

(3) when the bank has reason to suppose that the property has so diminished in value that it no longer presents the security required by section 3, and when the debtor has failed, within three months after notice, to increase the security as required, or when such increased security has not been certified to by a declaration of the communal council;

(4) when the property is either wholly or partly the object of a sale at law.

In cases (1), (2) and (4) the repayment must be made within three months after notice; in case (3) the three months time allowed for improving the security shall serve also as the period of notice.

19. The communal council is responsible to the bank for loans granted by the bank, to the amount of the survey valuation of the property situated in the commune unless the commune has, under section 6 (5), placed a lower value on the property, in which case the responsibility of the commune extends only to such lower sum.

20. If the proceeds of a property or part thereof sold at law do not attain the amount of the survey valuation as stated at the time of the contract or the amount estimated by the communal council, and the bank thereby sustains loss, it may require the commune to pay up the whole amount of the debt, such debt being then assigned to the commune as creditor. In such cases a court notice may be served on the commune before the sale is finally confirmed, so that it may, if possible, safeguard its interests by a higher bid.

The bank may also transfer its position as creditor to the commune and require from it the whole payment of its debt when it has not been found possible to sell the whole or part of the property by auction.

The commune can, however, never be required to pay up more than one annuity in arrears and any annuities that may have fallen due since the commencement of proceedings in addition to the balance of the principal still owed, and the costs of the proceedings. The commune has its remedy against the members of the communal council if there has been fraud or negligence on their part.

21. The rights granted by the preceding sections are not enforceable against the commune if the loss sustained by the bank is due to an accidental decrease in the value of the property under mortgage, or if it has been caused by a general fall in the price of immovable property.

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* This is as follows:—

"Registration validates mortgage claims (hypothèques) and preferential rights (privileges) for a period of 10 years from the date of such registration; it ceases to have effect if not renewed before the expiry of such period."

† Presumably the insurance office is a State institution, with the Prefect (Collector) as chief insurance agent.

Nor can they be enforced against the commune if the latter or the communal council has notified to the bank, with due proofs, any decrease in the value of the property, and if the bank has thereupon failed to send to the debtor, within one month, the notice contemplated in section 18 (3) and the final notice to repay the debt, and has not followed up such notices (by proceedings) after the expiry of three months.

22—26. (Special provisions for certain districts; of no general importance.)

27. The investments and advances contemplated by section 2 (2), shall be exceptional and temporary and only when there are idle funds which cannot be employed under section 2 (1), (mortgages).

28. The bank will receive deposits, as funds may be needed, and will pay interest thereon. The minimum deposit shall be £8. The bank will undertake the payment (for the depositor) of the public taxes * due on such deposits.

29. Temporary deposits up to a sum of £8,000 may be received when required for the needs of the bank.

30. The funds of minors and incapacitated persons (trust funds) may be invested in the bank (section 268 of the Bernese Civil Code).

31. The funds of the State in general and the assets of the bank in particular are pledged as security for obligations contracted by the bank in accordance with the present law.

32. The bank is placed under the supreme supervision of the director of finance and the executive council (of the State).

Its administration is entrusted to a board of fifteen members appointed by Government. The executive council appoints the president and vice-president from the members of the board, which then nominates its secretary.

A committee of five members of the board attends to the details of business.

* * * * *

38. The grand council (of the State) shall issue rules of business for carrying out the present law, especially with reference to the formalities and securities required in the granting of loans, the rules for the administration of the bank, and the powers and duties of the several bodies and functionaries.

RULES OF BUSINESS OF THE MORTGAGE BANK OF CANTON VAUD (SWITZERLAND).†

LOANS.

* * * * *

2. The bank makes loans as follows :—

(1) On mortgages, repayable by annuities in such wise as to extinguish the debt in 9 years at least and 53 years at most;

(2) On mortgages of a term not less than 5 years, the repayment of which can only be required at the expiry of the term or afterwards upon notice given one year previously;

(3) On the pledge of mortgage deeds of property within the Canton or of land mortgage debentures issued by the bank; such loans shall not exceed one year in duration.

3. The capital of the bank shall preferentially be devoted to loans on agricultural property, and loans repayable by annuity will be favoured.

4. Every application for a loan shall be at once entered in order of date in a special register.

5. (Requires the entry of certain details in the application, including a statement of the actual income derived from the property; it must be accompanied by an extract from the latest survey accounts, and a certificate from the register of real property.)

6. The bank will only accept mortgages on properties yielding a permanent and certain income.

It will not accept a mortgage on an undivided property unless the mortgage be granted over the whole of such property and unless all the co-sharers join in such mortgage.

7. Loans on mortgages shall not exceed three-fourths of the value of the property offered as security.

The value shall be determined by the survey valuation or upon examination by experts. If the security offered consists of buildings, the sum lent shall not exceed two-thirds of the amount of the fire assurance.

Loans on vineyards are limited to two-thirds of the survey value when the experts' valuation is above that amount, and to two-thirds of the experts' valuation when below the amount.

Factory buildings shall only be estimated at their actual and independently of their industrial value.

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* *Cf.* the tax on 'la richezza mobile' in Italy, a very heavy (13·70 per cent.) tax.

† *See* Vol. I, pp. 87–88. The abstract given in those pages of the articles of the bank is sufficiently full to permit of dispensing with a regular translation, but some of the rules of business (reglement) which are appended to the articles may be useful. Only a few of the rules are given, viz., those relating to loans and debentures.

Mines, quarries and peat-bogs shall not be included in the valuation for the loan.

8. The valuation shall be made upon a consideration both of the net income and of the sale value.

9. Loans shall not be less than £12, or contain any fraction of £4.

* * * * *

14. When loans are repayable by annuity, the annuity shall comprise both interest and sinking fund, at the rates settled by the contract.

The annuity shall be fixed, and does not diminish as the capital is paid off, but as the interest is calculated each year on the amount of capital still unpaid, the proportion of the annuity allotted to the sinking fund payment increases as that due for interest decreases.

15. (Penal rate due on arrears.)

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19. The total or partial repayment of a mortgage loan must be preceded by at least one month's notice. But the bank does not waive its right to the full term of such notice as granted by the law.

*Debentures.**

20. The bank issues debentures bearing interest and known as 'Land mortgage debentures of the Vaudoise Cantonal mortgage bank.'

21. Guardians, trustees and managers of properties under judicial administration may, without further authorization, invest their trust funds in these debentures.

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24 to 26. [The debentures are personal (to order) and to bearer, at the choice of the lender, and are taken from a stub with counterfoil.

Personal debentures are transferable by endorsement; such transfers must be registered in the bank, which, however, is discharged of responsibility on payment to the person presenting the document, and is not answerable for the regularity of the transfer. Debentures to bearer are transferred by simple change of hands.]

27. Debentures presented for repayment must be accompanied by the unpaid interest coupons; the bank will retain the value of any coupons not so presented.

28 and 29. (Holders of debentures advertised for repayment must present them for the purpose; if repayment is not claimed within 5 years of echéance, the amount will lapse to the bank.)

30. The state collectors (Récéveurs de l' État) and bank agencies are obliged (1) to receive deposits for the purchase of debentures, (2) to pay the interest coupons: they must in such matters conform to the bank's rules.

31. The above collectors and agents will deliver to depositors a temporary receipt signed by themselves and taken from a stub; this, within 20 days, will be exchanged for regular vouchers.

LAW FOR THE ESTABLISHMENT OF LAND IMPROVEMENT BANKS (PRUSSIA).†

1. Land Improvement Annuity Banks may be established for the following purposes, viz.:—

(1) for the development of agriculture, especially by means of drainage and irrigation works, by the making and improvement of roads, by the conservation of forests, by the fitting of waste land for cultivation, and by the undertaking of new agricultural enterprises;

(2) for the making of embankments;

(3) for the laying out, widening, and upkeep of dykes, and for the works necessary for their safety and improvement;

(4) for the laying out, fitting for use, and upkeep of water works and reservoirs, and for the restoration and improvement of water-ways and other navigable works.‡

2. The banks are institutions of the Provincial unions.§ Their organization and management are regulated by articles.

3. The establishment of a bank depends upon the decision of the Provincial Council concerned.

The operations of a bank may be restricted to one or more of the objects mentioned in section 1.

4. The bank will grant loans either in cash or in debentures issued by the bank. These debentures shall be issued 'to bearer,' and shall bear the title of 'Agricultural annuity debentures.'

The face-value of all the debentures issued must never exceed the amount of the loans granted.

If a loan is granted in cash, the bank may issue debentures to the same amount. Any premium obtained by such issue shall be paid over to the reserve fund (section 47).

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* These do not seem to have any specially privileged position or to be based on any specially charged security, as are the Pfandbriefe of the German Landschaften, or the English land mortgage debentures under the special Acts (*q.v.*).

† Ländeskulturrentenbanken; *see* Vol. I, pages 63–65.

‡ The commentary states that by the 'Wasserläufen' and 'Sammelbecken' of the text are intended pumping stations and water works for places insufficiently supplied with water.

§ It will be noticed that the banks are official; the Provincial unions are those of East Prussia, West Prussia, Pomerania, &c.

Debentures shall only bear the same interest as that paid by borrowers to the bank.*

5. Loans shall not be called in by a bank unless under the following rules :—

A bank has the right, upon six months' notice, to call in a loan or the unpaid balance thereof—

(1) if the debtor fails to fulfil his obligations under the articles and under his contract after due notice issued to him by the directors ;

(2) if the mortgaged property or any part thereof comes by decree under attachment, management, or sale, or under any similar proceeding, or when the legal validity or priority of the mortgage is affected;

(3) if the mortgagor becomes bankrupt;

(4) if the successor to the estate declines to accept the request of the directors that he will undertake the personal responsibility of the original borrower.

The interest payable by a borrower shall be at most (mit höchstens) four and-a-half per cent., and the sinking fund payments at least one-half per cent. annually. The interest payable on the full nominal value of the loan shall continue to be paid notwithstanding the gradual reduction of the loan amount through the operation of the sinking fund, such portion of the interest as is not necessary as interest being paid to credit of the sinking fund.†

It is not necessary that every class of loan shall be repayable by the above system of amortization.

The interest and sinking fund contribution together form the annuity payable by the debtor.

6. In order to secure the loans, the annuites and additional payments shall be secured by mortgage upon profitable agricultural or forest estates.

Loans on such properties shall be considered secure when they do not exceed twenty-five times the amount of the net survey-income (Katastral-Reinertrages) as estimated by the latest valuation for the land tax (Grundsteuer-Einschätzung), or 50 per cent. of the value of the estate as estimated by a valuation of the landlord, of a land bank, or by a special valuation of the bank.

7. Should the value of the property have been estimated by a special valuation by the bank, and should a loan thereon be granted for the carrying out of an enterprise which has for its object the improvement of the agriculture of the property or of a part thereof, the *plus*-value produced by the undertaking shall be taken into consideration. Such *plus*-value must be distinguished from the value of the property when in its original condition.

The security of the loan may also be taken as sufficient when its amount falls within 50 per cent. of the total value of the property *inclusive* of the *plus*-value to be obtained through an improvement, or within three-fourths of the original value as ascertained by a valuation by the bank at the time of the loan.

So much of the loan as does not fall within three-fourths of the original value of the estate, or within twenty-five times the net income as per survey, may only be paid after the regular execution of the undertaking.‡

8. The borrower may, after the completion of the undertaking, be granted a larger loan up to the amount which he has spent thereon, should the costs not be covered by the original loan. In such case the *plus*-value obtained by the improvement shall be estimated by a fresh valuation.

The security is to be considered sufficient for a loan up to 50 per cent. of the new valuation.

9. In the cases contemplated in sections 7 and 8, the rules necessary in the interests of the bank for ascertaining that the improvements are maintained in good order, the principles on which the special valuations are to be made by the bank, the rules for taking into consideration the *plus*-value expected to be produced by an improvement (section 7 (1)) or of the *plus*-value actually produced (section 8), as well as the rules for the methods and for the perfection of the undertaking, shall be entered in the articles.

10. Loans which may be granted for improvements by drainage may, so far as the articles of a bank provide, come under the application of the following sections 11 to 31.§

11. If a proposed drainage work is found capable of effecting a permanent improvement in an estate, the borrower may, under stipulation that the hereinunder following restrictions shall be observed, claim that after the execution of the work to be completed in a given time, the annuities payable by the estate together with any additional amounts (section 34) shall obtain a right of priority over all other charges founded on private titles in the estate in question.

12. A loan shall be repaid by the registered annuities. Such annuities shall be paid by at least half-yearly instalments. It is also to be provided that in addition to the regular interest, at least four

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* The banks are not intended to make serious profit; expenses are provided for by a special subscription *ad hoc* of 0·2 per cent. annually.

† This is simply the amortization system customary in Land banks of repaying loans by fixed annuities combining payments on account of both interest and principal; as the principal diminishes the proportion of the annuity credited to the sinking fund *pro ratâ* increases.

‡ This section is an important one for Indian consideration.

§ As mentioned in Vol. I, pages 63–64, these banks arose out of a demand for facilities for undertaking drainage projects, so that the rules on this subject are more specific than on the other subjects of the law. The entry of section 31 seems a clerical error for section 32. In line 22 from the top, page 64, Vol. I, it may be noted that though the bill may have had only 32 sections, the law—the present one—has 53. It should also be noted that the present law does not cancel, but apparently developes the previous laws on the several subjects mentioned in section 1 (*see* Vol. I, page 63, paragraph 4), and that the law relating to the formation of irrigation and drainage associations is now that of 1st April 1879, and, as mentioned in the statement of objects and reasons for the law under translation, is the complement or correlative of that law. It is hoped, shortly, to translate the law for irrigation and drainage associations, if indeed it does not appear in the present volume. Meanwhile it may be stated that, like the "Associations Syndicales" (*see* present volume), they are 'voluntary' and 'public'; one section says, "The Associations (Genossenschaften) shall be established either by mutual agreement—voluntary associations—or by decree of the State authorities—public associations."

per cent. shall be annually paid to the sinking fund.* The articles may prescribe that the amount payable in the first year shall not exceed the amount due as interest.

Such portions of the annuities as are not required for interest as the principal decreases by the gradual increase of the sinking fund, shall be added to the sinking fund.

13. The right of priority may only be granted for such amount, to be repaid by annuities, as does not exceed the actual costs of the undertaking.

The right of priority may, with regard to such portions of the estate as are specially charged (with the right), only be granted in so far as such portions are directly affected by the improvement.

14. The borrower has the right to obtain, by an entry in the land or mortgage registers, a prior right over all subsequent registrations or lawful mortgages, and, moreover, to claim from the special authorities † the grant of a right of priority in general (for this loan) on presentation—

(1) of a regular plan and estimate for the proposed drainage work with the intended date of completion;

(2) a certified extract from the land register relating to the estate, or of an extract from the mortgage register showing all existing mortgages, including that mentioned at the beginning of this section.

15. The special authorities shall require upon the proposal the opinion of one of the commissions instituted for this purpose in the Province; such opinion shall show whether and to what extent the proper execution of the proposed undertaking is capable of bringing about a permanent improvement to the estate, and how far the estimate of the cost is suitable.

In simple and clear cases, the special authorities are permitted, according to their discretion, to obtain the above information in any other way.

16. The commissions mentioned in section 15 shall consist of two proprietors of estates within the Provincial union; these shall be chosen at the time from the Provincial council; to these shall be added one of the sworn experts appointed by the special authorities.

The duties of such commission may by the articles be transferred to any Landschaft (Land bank) established in the same district (under certain conditions which it would be useless to translate).

17. Should the special authorities consider that the proposed drainage work is of a nature to permanently benefit the estate at least to the amount of the cost of the work, it shall invite, by public advertisement, the notification by any claimants to the property of any objection to the grant of the above-mentioned right of priority; such objection to be made in writing within six weeks.

18. In the notice—

(1) the amount and period of the annuities to be paid by the borrower, and the estate which is to be the security for the loan, are to be mentioned;

(2) it must further be stated that the plan and estimate of the proposed drainage work together with the opinion of the commission or the information otherwise obtained, may be inspected at a given place and for a certain period;

(3) it is also to be declared that at the expiry of the period a decision will be passed on the merits of the case regarding the grant of a right of priority to the loan, and that no objection will be considered which may be put in after the date of such decision.

19. The publication of the notice is made by a single advertisement in the official gazette, and in whatever newspaper is used for official publications at the seat of the Civil Court within the jurisdiction of which the estate is situated.

The period of six weeks mentioned in section 17, runs from the day on which the later of the above advertisements appears.

20. (Omitted.)

21. Should an objection be lodged within due time by a legal claimant, the grant of a right of priority shall be deferred till after the decision upon the claim of the objector and others.

An objection is in due time if lodged before the decision of the special authorities is issued.

22. After the expiry of the period (for objections) the special authorities must decide what priority may be granted for the annuities in case of the regular carrying out of the proposed drainage work.

The decision is to be accompanied by the reasons thereof. The decision is final (eine Anfectung findet nicht statt).

The special authorities may, before the issue of their decision, set on foot an enquiry by commissioners (arbitrators) for the settlement with any objectors of their objections; notice shall be given to the claimant (of the loan) of such enquiry.

23. Upon a favourable decision by the special authorities, the bank may assure the borrower that the loan will be granted after production of the necessary security.

24. Security shall be obtained by registering the annuities and any supplements thereto in the land or mortgage register. The same is the case if the principal of the loan is registered in place of the annuities.‡

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* It will be noticed that drainage loans are to be rapidly repaid.

† Auseinandersetzungsbehörde; it is not quite clear who these authorities are, but they are a Government department; the commentary simply speaks of them as "that Government department which, in each Province is expressly regarded as the "Auseinandersetzungsbehörde." "Apparently it means the Government authorities who are *specially* (auseinander) charged with the duties mentioned in this law as appertaining to them. In the text they will hereafter be called the "special authorities."

‡ It will be noticed that the annuities (Rente) are treated as the loan, just as in the statutes relating to the Landschaften, the debentures (Pfandbriefe) are so treated because the loan is usually issued as debentures repayable by a fixed series of annuities, and is not issued as a loan of a lump sum in cash.

25. The registration of the priority of the annuities in the land or mortgage register is based upon the decision of the special authorities and upon a certificate that the execution of the drainage work is effectually accomplished.

The special authorities must, before granting the certificate, obtain the necessary information in the manner provided in section 15.

The decision of the special authorities as to the proper execution of the work shall be final (ist nicht anfechtbar).

26. Should it appear to the special authorities according to an enquiry as in section 25, that a portion of a projected undertaking has been regularly executed and that thereby a permanent and substantial improvement has been effected, such portion of the annuities as may be determined upon by the authorities may be registered as having priority of right.

27. The registration of the right of priority is valid without the production of the deeds executed in the matter of existing claims upon the property.

28. The owner of a property charged with annuities is bound to maintain the drainage works in good order throughout the duration of the annuity charge. The bank is bound to watch over the fulfilment of this duty and, in case of necessity, to compel it.

On the demand of the bank or of any of the claimants whose dues have been postponed (to those of the bank) by the special authorities (section 22), the said authorities may carry out any necessary repairs at the cost of the owner.

29. The costs incurred by the proceedings of the special authorities are to be calculated according to the rules in force for affairs carried out by the said authorities.

30. At the partition of an estate charged with annuities, the rules for the partition of the State taxes are applicable to the partition of the burden of the annuities; but in such case should any share of the annuity fall below 1 mark (shilling) annually, it shall be at once redeemed by payment of its capitalized value (section 36).

The shares to be imposed on the separate divisions shall be so rounded off that the amount of each expressed in pfennigs (half-farthings) shall be divisible by ten.

31. The cancelment of the annuity charge in the land or mortgage register shall be obtained by the bank. Such cancelment must be obtained as soon as the annuities are fully paid off.

32. If a loan is granted for a drainage work on a feudal or fidei-commissa estate, sections 10 to 16 and 22 to 31 are applicable to the sharers in such estates and to the male descendants, in so far that the registration of the annuities as a charge upon the estate do not require the consent of the above parties. No objection from such parties shall be admissible.

* 33. The demand for mortgage security may be omitted when the loan is to be granted—

(1) to a municipality or commune;
(2) to public co-operative societies (Genossenschaften) in the sense of the law of 1st April 1879 regarding the formation of Irrigation Societies;
(3) to dyke associations (Genossenschaften) which are provided with rights as corporations and the organization of which is directed by rules ratified by the sovereign;
(4) to co-operative associations in the sense of the law of 6th July 1875 regarding game-forests and forest associations.†

34. Contributions to the costs of the management of the bank may be collected as supplements to the annuities and may amount annually to a proportion not exceeding 0·2 per cent. of the loan.‡

35. The annuities together with all charges leviable, according to the articles, on account of the maintenance of improvements (sections 9 and 28), may be collected by administrative execution (distraint or attachment?) or otherwise enforced.

36. The borrower is always free to repay to the bank either the whole or part of his debt, and either in cash or in the bank's debentures at their face-value.

In such case the annuities to be paid up must include those of the current half-year. Repayments in part are not to be accepted if below £25.

37. The debentures may be issued in the forms hereinunder given § in sums of £250, £100, £50, £25 and £10 each; they must bear consecutive numbers in their several series, and must bear interest at a rate not exceeding 4½ per cent. per annum payable half-yearly.

The holders of the debentures can claim no right of repayment.‖

38. With every debenture shall be issued interest coupons for ten years as per Form B, to which are attached a certificate (Talon) in Form C.¶

At the end of ten years a new set of interest coupons is issued to the holder of the certificate (Talon) upon production of the same, unless the holder of the debentures themselves lodges within due time and at the appointed place an objection to such issue; in such case the issue of the new set of coupons with its certificate is made to the holder of the actual debentures.

39. The value of such coupons as have fallen due will be paid in cash by the bank on delivery of the same.

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* From this section the rules become general and do not relate solely to drainage works.

† In all these sub-sections the word for association or society is 'Genossenschaft' or co-operative society, as distinguished from a 'Gesellschaft' or public company generally joint stock and operating for dividends.

‡ The law does not say whether the original amount of the loan is here meant or the amount outstanding in each year. In a gradually decreasing principal this is an important matter. Probably it is 0·2 per cent. throughout on the original loan amount.

§ Omitted.

‖ That is, till drawn by lot or bought in by the bank; they cannot present them to the bank at any time and demand payment as though they were notes; they are simply bonds repayable by the bank when drawn by lot or bought up by the bank, *see* Vol. I, pp. 96, 97, &c.

¶ These forms are omitted in this translation.

40. The limitation period for the value of due but not presented interest coupons is four years. Such period counts from the December following the due date of payment.

41. (The bank must draw by lot or buy in for repayment every half-year as many debentures as the sinking fund permits. The numbers of those drawn and the place, &c., of repayment must be duly published.)

42. The face-value of the debentures drawn shall be paid in cash to the holders thereof. No interest is payable on debentures from the date fixed for their repayment.

43. The limitation period for the repayment of drawn debentures shall be ten years. Such period runs from December of the year in which the date for repayment falls due.

44. Even though a debenture is no longer entitled to interest (section 42), the interest coupons thereon which have still to run will be paid by the bank to the person presenting them, in which case the debenture holder must, when he presents the debenture for repayment, submit to the deduction of the value of the missing coupons.*

45. (All drawn or bought-in debenture to be burnt with various precautions.)

46. (In case of lost or destroyed debentures public notice may be issued declaring them null and void; to be issued only after a certain time. Presumably duplicates will then issue. No such notice can issue in the case of certificates (Talons) or interest coupons; but the value of coupons may be paid after the period of limitation is over, provided that due notice has been given to the bank at the time of the alleged loss or destruction.)

47. A reserve shall be constituted from all sums obtained by the bank as interest from the investment of their cash balances,† from any market premium (on the issue of debentures, sections 4 and 41), and from the proceeds of any interest coupons or debentures of which the limitation period may have passed (sections 40 and 43).

The interest received upon (the investment of) the reserve shall be credited to the reserve.

The reserve shall accumulate up to the amount of 5 per cent. of the value of the aggregate debentures issued.‡

The reserve is intended to cover any losses upon the annuities. Should the amount of the reserve be below the above proportion, the deficiency shall be supplied by the Provincial union. Any excess of the reserve beyond 5 per cent. and any surplus thereof which may remain at the dissolution of the bank after the complete repayment of all debentures, shall be credited to the Provincial union.

48. So soon as the reserve shall have reached the amount mentioned in section 47, paragraph 3, the interest thereon shall, by special provision in the articles of the bank, be applied to the costs of administering the bank with a corresponding total or partial reduction of the supplementary payments mentioned in section 34.

49. Such freedom from stamp duty as is granted to the treasury (Fiskus) shall be conceded to the Land Improvement banks. The registration of securities mentioned in sections 6, 14, 24, and 27, in the land or mortgage registers shall be free of charge.

50. The directors of a bank are bound once in every year to publish a report of the bank's affairs.

51. By a decree of the Provincial Council confirmed by sovereign approval, a Land Improvement bank may be dissolved, and for this purpose a period shall be fixed after which loans shall no longer be granted by the bank.

52. The articles of a bank shall provide for—

(1) the objects of the bank (sections 1 and 3);
(2) the manner of choosing the directors, rules for their meetings and for their duties;
(3) rules for the presentation of and modes of enquiry into applications for loans, as also for deciding upon the same;
(4) the principles to be observed in valuations in conformity with sections 7, 8, 9, and 24, paragraph 2, in the suitable betterment of the estates to be improved, and in the enquiry regarding the due execution and in the control over the maintenance of works of improvement;
(5) the provisions for paying interest on and for paying off loans and for repaying the costs of administration (sections 5, 34 and 48), and the rules regarding the costs incurred in enquiries regarding loans and in undertaking special valuations) (sections 6, 7 and 8);
(6) the periods at which debentures shall issue and at which annuities shall be paid, as also those for the collection of interest (section 37);
(7) the scheme of the sinking fund (sections 5, 12), the procedure for the repayment of loans (section 36), the periods at which debentures will be drawn, and drawn debentures will be paid, and the rules for the investment of the reserve at interest (sections 41, 42 and 47);
(8) the rules for the formation and procedure of drainage commissions (section 15), as also the modes of transferring the duties of such commissions to a land bank (section 16 (2));
(9) the procedure to be followed in making notifications (sections 41, 45 and 50), as also the public journals in which they are to be published.

53. The articles of a bank must be approved by the Provincial council, and require ratification by the Sovereign.

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* That is, if a debenture is drawn for repayment while it still bears or should bear the coupons of several years to come, the bank will pay the value of such coupons at their due date whether the debenture has been paid off or not, since the debenture-holder may have discounted in advance the whole ten years' coupons; in such case the bank will deduct from the amount repayable on the debenture the sum due for all coupons whose due date was subsequent to the drawing of the debenture (section 42), but which are missing at the time of repayment of the debenture.

† That is from sums kept in land and not issued on loan.

‡ 'Ausgegebenen'; this appears to be an error for 'bestehenden' or 'ausstehenden' = outstanding, since a reserve consisting of 5 per cent. of all *issued* debentures would be unusual and probably unnecessary.

CHAPTER II.—AGRICULTURAL CREDIT (CREDIT AGRICOLE).*

LAW OF 28TH JULY 1860 (FRANCE).

1. Articles 2 and 3 of the agreement between the State and the 'Society for agricultural credit' are hereby ratified: these articles stipulate on behalf of the society for a State subvention to be granted only during the first five years of the society's existence, and only in case the annual profits are insufficient (to give the costs of management and interest mentioned below). The subvention shall be granted to cover the costs of management and to guarantee interest at 4 per cent. on the paid-up capital, but shall not exceed annually the sum of £16,000 and shall be further subject to the conditions of the said articles.

AGREEMENT.

1. The founders agree to form, with the approval of Government, a joint stock society with the object of providing capital and credit for agriculture and for the industries allied thereto, and of undertaking all operations which shall encourage the clearance and improvement of the soil.

2. In case the annual profits of the society are insufficient to cover the costs of management and interest at 4 per cent. on the paid-up capital, the difference shall be paid to the society by the State, provided that the sum so paid shall in no case exceed annually £16,000.

This arrangement shall subsist for five years from date of approval of the society's articles.

Any losses sustained by the society by reason of the non-payment of the principal or interest of its loans shall be borne solely by the society. In the settlement of accounts between the State and the society, such sums shall be considered as paid even though unpaid.†

3. The society shall draw up a proper balance sheet showing the cost of administration and the net results of the business.

LAW OF 16TH FEBRUARY 1861.

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3. The society is bound to send every six months a statement of its position to the Minister of Agriculture, Commerce, &c., to the Chamber of Commerce, and to the Commercial Court of the district of the Seine.

4. Moreover, the society must furnish to the Finance Minister, either on demand or at fixed periods to be settled by him, similar statements showing its financial position, its securities, and its business.

5. The working of the society shall be subject to verification by the inspectors of the Finance Minister whenever he deems it advisable. These inspectors shall be furnished with the minutes of meetings and with all the books, accounts, vouchers and documents of the society, and they shall inspect all securities.‡

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* *See* Vol. 1, pp. 123–126.

This law consists only of the single section here entered, but must be read with the subsequently entered agreement and with the law of 16th February 1861.

The society failed disastrously in 1876, and has never been revived, a fact which fairly goes to prove the inability of central institutions to grant current and petty credit to millions of small holders, the object for which it was started. The law is entered to show that privileges are useless when the institution is constitutionally unfit for its purposes.

At the time this law was framed no joint stock company could be formed in France without the express authorization of Government (section 37 of the Code of Commerce).

† The object, of course, is to secure the utmost care and good management on the part of the society; the State would not allow its subvention to encourage careless lending or careless administration.

‡ A subsequent addition is as follows:—

A financial statement drawn up at the end of each month and signed by the Governor shall be published (in certain newspapers), and copies sent to the Minister of Agriculture, &c., and of Finance. The statement shall be not merely a balance sheet, but shall show the movement of its funds, and the value of paper in circulation under its endorsement and guarantee (*see* 'Discounts,' pp. 124, 25 of Vol. I).

LAW OF 28TH MARCH 1848 (FRANCE) ESTABLISHING SUB-OFFICES OF DISCOUNT.*

Preamble: The provisional Government, recognizing that the decree of 8th March 1848 relating to National Discount banks, permits these institutions to discount only bills with at least two signatures; that the great mass of small traders, artisans, and *agriculturists* cannot provide a second signature; that such persons are therefore deprived of the benefits of the discount bank since they possess no other sources of credit than their own assets which are necessarily fixed (immobilisé, *i.e.*, sunk in their business, farm implements, &c.) and that it is necessary that most persons should share in the benefits of credit; hereby decrees as follows:—

1. In towns where a (National) Discount bank exists, sub-offices may be established either for particular localities or for specific groups of industries, which shall serve as intermediary guarantees between industry, trade, and agriculture on the one part and the National Discount banks on the other.

2. The sub-offices shall be organized as joint stock companies each with a capital of not less than £4,000, in shares to bearer of £4 each. They may begin business whatever the number of shares subscribed.

3. The manager of a sub-office shall be appointed by the Minister of Finance, and shall be *ex-officio* the chairman of the directorate. A committee shall moreover be appointed by the Discount bank of that locality which shall supervise the operations of the sub-office.

4. The business of the sub-offices shall consist in procuring for tradesmen, artisans, and agriculturists either on their own security or with that of a guarantee, or with the endorsement of a third person, the discount of their bills or notes of hand at the Discount bank, such bills being secured by the pledge with the sub-offices of goods, warehouse deposit receipts and securities.†

5. The capital of the sub-offices is not intended to be used for such discounts, but solely as guaranteeing their business with the Discount banks. Hence the whole of their captail shall be deposited at interest in the respective Discount banks to which the sub-offices are annexed.‡

6. The sub-offices shall not engage in any business whatsoever save as intermediaries between the Discount banks (and clients), so that the capital of the sub-offices shall be liable for nothing except for business accepted by the Discount banks.

7. For the increase of such capital the sub-offices are authorized to deduct on each operation (discount) a sum of 5 per cent., which shall be carried to the credit of the client, who shall become a shareholder as soon as these deductions amount to £4.§

8. The sub-offices are entitled to levy from the net proceeds of the advances made through them, 0·25 per cent. per month as commission, exclusive of all costs of warehousing, &c.

9. In modification of the provisions of the Civil Code relative to pledge and to the recovery of dues on advances on pledge, the sub-offices are authorized, eight days after simple notice and without

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* The Bank of France only discounts short-term bills with three separate signatures or acceptances, and two of those only of a particular character; in 1848 it was therefore determined by Government to establish National Discount banks which would accept paper with two signatures of known constituents, add its own signature, and rediscount the paper with the Bank of France. The 'National Discount bank of Paris' was one result, but this, being itself a central bank, could not deal with the small folk of whose circumstances it was ignorant, nor could it grant loans on the pledge of goods and produce, since the French law recognizes in matters of pledge only loans on actual pawn or delivery of the goods to the pledgee, and it would hence be impossible for a central bank to deal with farmers and small manufacturers in the provinces. It was therefore determined to establish sub-offices of discount (Sous-Comptoirs) which should deal at first hand with the small trading and producing folk, receive their pledges and discount their bills which might contain only the single signature of the borrower, since the bill would be secured either by the pledge of goods or by the known character of the borrower. The preamble to the Act explains the excellent intentions of the legislature. In 1860 the Crédit Foncier, then in full and successful operation, was substituted for the National Discount bank of Paris for the one sub-office in operation.

The Act is here inserted to mark a failure at least as regards agriculture. There was a known and recognized want, viz., that of capital and credit for small folk; a law was thought out and introduced for their express benefit and placed under an active, very powerful and thoroughly well organized and managed institution, viz., the crèdit Foncier; yet it has been, as regards the vast mass of such small folk, a dead failure. It is believed that only one sub-office was established, viz., that of the 'sub-office for contractors' at Paris, which deals with building operations. At all events if there are more than this one, they do nothing for agricultural credit, for they are not even mentioned in any of the reports or treatises dealing with the subject.

The failure of the like Belgian experiment (*q.v.*) may be compared.

† One reason for the failure of the sub-offices to reach agriculturists is here made clear; the notes or bills of the borrowers would only be accepted when accompanied by the actual pledge of goods deposited, or of receipts for goods under deposit in warehouses maintained for the purpose. Obviously an agriculturist cannot often pledge his produce, cattle or implements with a bank; for him, at least, the pledge without delivery, as in English bills of sale, or as in the Italian and Belgian special laws for agricultural credit (*see infra*), is necessary.

‡ The sub-offices were not to find the actual funds for advances on discount; secured by the signature of the borrower *and the pledge of his goods*, a sub-office was to affix its own signature to the bill and pass it on to the Discount bank: this latter would find the funds, and then rediscount the bill with the Bank of France, its own signature being the third signature required. Hence the Bank of France finally advanced funds to the borrowers on the security (1) of the borrower's signature and pledge of goods guaranteed, (2) by the signature of the sub-office and further secured, (3) by that of the Discount bank. This is the probable mode in which funds will be attempted to be provided by the new law of 1894, except that there will be no pledge of goods; the bills will be signed by the member of a known association and by his surety also a member; this will be countersigned by a Discount bank and rediscounted by the Bank of France.

§ This is a somewhat peculiar mode of enforcing thrift while forcibly increasing the capital of the loan office. There is a somewhat similar provision in some Italian Popular banks, *q.v.*, which charge moderate interest on 'loans upon honour,' and credit the borrower with the amount until accumulates to the value of a share; in the Popular banks, however, the sole object is the encouragement of thrift and of the self-respect which follows from having a banking account or from being a member of a bank.

any application to court, to proceed to the public sale by the proper officers, of any goods pledged to them.*

10. All documents evidencing pledge to the sub-offices shall bear a fixed duty of 2·20 francs.

FRENCH LAW OF 5TH NOVEMBER 1894 RELATIVE TO THE CREATION OF SOCIETIES OF "CREDIT AGRICOLE."†

1. Societies for agricultural credit may be founded either by the aggregate of the members of one or more agricultural associations, or by some of such members; their object shall exclusively be that of facilitating or of guaranteeing operations affecting agriculture carried out by such associations or by members of such associations.

The societies may receive deposits in account current with or without interest; may charge themselves, so far as concerns the operations of agriculture, with the recoveries and payments to be made for the associations or for members thereof. They may specially borrow funds necessary to increase their working capital.

The capital shall not be formed by (ordinary) subscribed shares (actions), but by the contributions of members of the society. These contributions shall form shares (parts) which may be of unequal value; they shall be personal and not transferable except to members of the agricultural association and with the consent of the society.

The society shall not be constituted till after one-fourth of the subscribed capital shall have been paid.

When such society shall have adopted the form of a society "à capital variable," the capital may not be reduced by the withdrawal of shares of retiring members below the amount of the foundation capital.

2. The articles shall determine the head-quarters and mode of administration of the society, the conditions necessary for the modification of the articles and for the dissolution of the society, the formation of the capital, and the proportion in which each of the members shall contribute to such formation.

They shall determine the maximum of deposits to be received in account current and the extent and conditions of the responsibility which shall attach to each member on account of the engagements of the society.

Members shall not be freed from their responsibility until after the settlement of engagements contracted by the society before their withdrawal.

3. The articles shall determine the sums to be taken as profits on the operations undertaken by it.

Such sums, after payment of the general expenses and of interest upon loans (borrowed by the society) and upon the capital, shall be first of all carried, in the proportion of at least three-fourths, to the building up of a reserve, till such reserve shall have attained the amount of at least half of the capital.

The balance shall be divided at the end of each business year, between the agricultural associations and between the members of such associations in proportion to the profits derived from their respective operations.‡

It shall not, in any case, be divided, in the form of a dividend, between the members of the society.

At the liquidation of the society, the reserve and the remainder of the assets shall be divided among the members in proportion to their subscriptions unless the articles shall require its employment in some work of agricultural interest.

4. The societies of credit authorized by the present law are commercial societies, the books of which shall be kept in conformity with the provisions of the Code of Commerce.

They are exempted from all charge for trading license (patente) as well as from the tax on commercial paper.

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* The ordinary law (section 2078 of the Civil Code) is that a pawnee shall not, in default of payment, be allowed to annex the property pledged, but must proceed by suit in court which shall grant him the property, or the value of his debt after selling the property by auction.

The Indian law (section 176 of the Contract Act) allows the pawnee either to proceed by suit or himself to sell the thing pledged after due notice to the pawnor. Hence the ordinary Indian law is the same as the specially privileged procedure of the law for the Sous-Comptoirs, and exemplifies the remarks in Vol. I, p. 304, that privileges in Europe often merely assimilate the law to the ordinary law of England or of this country; *cf.* the Italian and Belgian *special* laws relating to pledge with the ordinary English bills of sale.

There is another law, however, relating to deposits of goods in warehouses; these are either public or private; the owners of the warehouses may lend on pledge of goods deposited therein, or they may merely give the usual certificates, receipts or warrants, which the holders or transferees thereof may pledge. In such cases, which are contemplated in the last part of section 4, the pawnees of the goods or transferees of the warrants (as pawnees) may sell the goods eight days after failure of the pawnor to pay his debt either through the commercial court (law of 1848) or by the public auctioneers (law of 28th May 1858) without any suit whatsoever. The French law relating to general warehouses is to be found in the laws of 23rd August 1848, 28th May 1851, 12th March 1859 (decree) and 31st August 1870. The Indian law is section 178 of the Contract Act, which, however, does not govern the establishment of warehouses, but merely permits of the pledge of warrants, &c., and does not appear to provide for the sale of the *goods* covered by the warrant where the warrant is pledged, but only the sale of warrant or other document.

The European law of pawnbroking and Monts de Piété differs from the ordinary law of pledge, and permits of sale of the pledges on default of payment.

† *See* pp. 179–81 and 218–19 of Vol I, in which the agricultural associations of France with their credit annexes, as at Poligny, are described. The new law proposes to utilize the immense number of newly-formed (since 1884) agricultural associations in supplying agricultural credit.

‡ That is the original Rochdale co-operative principle. The profits made by the society are regarded as an excess levied from those who have dealt, as members, with the society, and this excess is therefore refunded to such persons in proportion to the amount of their dealings, or, if ascertainable, in proportion to the profits actually derived from the operations of the society with them.

5. The following conditions of publicity are substituted for those prescribed for ordinary commercial societies :—

Before the society can begin work, the articles, with a complete list of directors or managing members and of all members with their names, addresses, profession and the amount of each member's subscription, shall be deposited in duplicate in the office of the Justice of the Peace (*Juge de paix*) in the Canton in which the society has its head-quarters. A receipt shall be given for such deposit.

One of the copies shall be sent by the said Justice to the office of the Commercial Court of the taluk.

Every year in the first fortnight of February, the manager or a director shall send in duplicate to the office of the Justice of the Peace, an abstract of receipts and expenses, as well as of the operations carried out in the preceding year, together with a list of the members who belong to the society at that date. One of these copies shall be sent by the Justice of the Peace to the office of the Commercial Court.

The documents deposited in the office of the Justice of the Peace and of the Commercial Court, shall be open to the inspection of the public on demand.

6. The members who are charged with the administration of the society are personally responsible in case of breach of the provisions of this law, or of the articles, for any damage resulting from such breach.

They may in such case be prosecuted and punished with a fine of from francs 16 to francs 200.

The court may also, on the motion of the public prosecutor, decree the dissolution of the society.

In case of any false declaration regarding the articles or the names and status of the directors, managers, or members, the fine may extend to 500 francs (£20).

7. The present law is applicable to Algeria and the Colonies.

BELGIAN LAWS REGARDING AGRICULTURAL CREDIT, 15TH APRIL 1884.

CHAPTER I.—LOAN OFFICES.

1. The general savings bank is authorised to employ part of its funds in loans to agriculturists.

These loans shall, according to their form and nature, be considered as temporary * or permanent investments of the savings bank, and shall be granted through loan offices (comptoirs agricoles) established in such localities as may be deemed advisable.

2. The chief council of the savings bank shall determine the rate and conditions of the loans, as also the conditions † on which the offices shall be organized and approved.

Its decisions on these points and its arrangements with the offices shall be submitted for the approval of the Minister of Finance.

3. In default of payment of a loan (granted through an office) at due date, the security given by the office shall be proceeded against according to law (5th May 1872, sections 4 to 9). ‡

In such case petitions shall be made to the court having jurisdiction which will take cognizance of any objections of which notice shall be given.

CHAPTER II.—THE SPECIAL AGRICULTURAL PRIVILEGE.

4. Loans made to agriculturists § may be secured by a special privilege recited in the loan deed and chargeable upon the goods which are subject to the privilege of the landlord by section 20 of the law of 16th December 1851. ||

The deed must indicate the nature and value of the goods charged.

5. To obtain the privilege the lender must make it public by registration in a special register to be maintained by the registrar. The date of registration determines the order of priority.¶

6. The privilege is valid for ten years from date of registration, and then ceases if not renewed.

7. Registration secures to the lender a preferential right over and the right to follow (the goods charged). The right of following the goods is exercised in conformity with the law of 16th December 1851, section 20 (1).

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* The French words are "provisoires" and "definitifs". But the real meaning is 'short' and 'long' term; part of the funds of a savings bank must be invested in short-term loans, the rest in long term such as mortgages.

† *See* the rules which follow this law.

‡ It will be seen by the rules (*see* also Vol. I, p. 128) that the comptoirs are to be responsible to the savings bank for the loans issued through their agency, and are to give guarantees or pledges which can be sued upon in case of default by the debtor.

§ It will be noticed that the privilege is granted upon loans granted to "agriculturists," not "for agricultural purposes." Nor is the privilege confined to loans from institutions or banks as by the Italian law of 1887 (*see infra* pp. 52—56); it is granted to all who lend to agriculturists, whether bank or private lender (statement of objects and reasons) The idea is to ensure the granting of credit to agriculture on easy terms by giving lenders special facilities for recovering their dues.

The word "privilege" is used as a convenient translation of the French word "privilege," though the words "prior" or "preferential right and claim or charges" would more accurately give the meaning.

|| Viz., the produce, stock, furniture, &c., of the farm. The second paragraph of the section limits the privilege to such goods or classes of goods as are mentioned in the loan deed, which is, practically, a bill of sale.

¶ A mortgagee of the lands of a farm held by its owner and mortgagor, has, by the Code Napoleon and similar codes, a right over the movables used for the working of the farm, which are called immovables "par destination." Hence the present law provides for lenders under this law by giving them rights over such property, provided that the bill of sale has been registered (*see* section 12 *infra*). If a farm is held by a tenant, the working stock does not form an immovable "par destination," but, on the other hand, is subject to the preferential rights of the landlord (*see* section 8 *infra*).

8. The landlord takes precedence of the lender unless he shall have yielded his claim of preference.

If the loan has been used in paying off creditors who have prior rights to the landlord, the lender succeeds to the rights of such creditors and takes precedence of the landlord under the conditions of the law of 16th December 1851. * This substitution is only permissible when the loan deed itself recites the intended application of the money and when such application is duly proved by receipts.

9. The landlord shall only enjoy his privileged right for rent for the current year and for the three prior years, together with any damages which may be decreed by reason of the non-fulfilment by the tenant of his contract as regards the work of the form and the payment of rent.

10. The borrower is bound, if so required, to prove each year within three months of the due date, that he has duly paid his rents on pain of losing, *ipso facto*, the benefit of his full loan period.

Every lender may retain, against a receipt duly given by him, the receipts produced by the tenant, and he binds himself, by such retention, to preserve them and to produce them on demand by interested third parties.

11. The owner who makes a loan to his tenant, whether by the lease deed or during the lease, must conform to the conditions of the present law if he desires to enjoy the privilege of the lender.

12. If the owner himself cultivates his farm, loans made to him enjoy the privileges of the law.

The lender may exercise his privilege over all movables considered as immovables "par des- "tination" (farm stock), as well as over the crops on the ground and fruits not yet gathered.

The claims of mortgagees previously registered take precedence of his privilege, which however takes precedence of mortgages subsequently registered.

If the loan amount has been used to pay off creditors with rights which take precedence of those of mortgagees, the lender succeeds to the rights of such creditors on the conditions mentioned in section 8 *supra*.

13. A cash credit for a definite sum enjoys the privilege granted by the present law. It takes rank from the date of registration without regard to the various successive dates of payment of the money.

14. A lender under this law exercises his rights under the procedure and by the methods laid down for landlords. †

Chapter III.—Registration.

15 and 16. (Relate to the place of registration and to the registers.)

17. The loan deed or agreement to grant credit (with all necessary details) is presented to the registrar, who enters it *verbatim* in the proper register and returns it with an endorsement that it has been duly registered.

18. The transfer of a debt carrying the special privilege or the substitution of a similar right must also be registered to obtain validity. In such cases the registrar makes the registry by note in the margin of the original register entry.

19. Registered entries may be cancelled or modified by consent of the parties interested, or by virtue of a decree.

20. (Omitted.)

21. The registrar is bound to deliver to any applicant upon due payment a copy of any existing register entries or a certificate that none such exist (in relation to a particular property).

22. (Omitted.)

23. One franc is payable to the registrar

(1) for each entry;
(2) for the annulment or modification of an entry;
(3) for a copy of any entry;
(4) for a certificate of non-existence of any entry.

Chapter IV.—Stamp Duties and Registration Fees.

24. Agreements between the general savings bank and the members of any loan office (comptoir agricole) are registered *gratis*.

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* The rights of landlords in Europe are peculiar and extensive, but need not be detailed. Suffice it to say that, by the law mentioned (16th December 1851), the preferential claim of the landlord which takes precedence of mortgage and other contractual claims, extends in all cases to the rents of the past three years and, if the lease is one of fixed term based on a regular contract, to the rents of all the remaining years of the lease: if it is a holding without written and registered contract (as of a tenant at will), the preferential right extends only to the rent of the current and next succeeding year in addition to that of the past three years. The present law, however, restricts the privileged rights of the landlord to the rent of three past years and of the current year (section 9): *cf.* the recent French law of 1889, which restricts the privilege to the rent of four years, (*see* Vol. I, p. 123). No privilege is granted for the rent of years not yet begun, a privilege which is apt to cause much hardship: *e.g.*, M. Durand states, apparently on the authority of Signor Mangili (Il credito agrario), that in Italy it is customary for a landlord to claim his rent in advance (il est d' usage de faire payer le fermage d' avance).

† This is a large privilege; the procedure of a landlord for arrears of rent is by execution (distraint) upon growing crops, goods and furniture (saisie-brandon, &c.): *see* sections 819, &c., of the Code of Civil Procedure (Belgium). Since the power is given to any creditor of an agriculturist under this law, it appears to put very large powers into the hands of usurers. The Italian law of 1887 (*q.v.*) expressly confines this power to institutions of credit, with a view to exclude usurers in favour of banks.

25. Loans and cash credits granted without other material security than the special privilege and transfers of claims arising therefrom are chargeable with a stamp duty of 0·65 per cent. for agreements for more than one year, and of 0·30 per cent. if made for one year or less.

Receipts for the repayment of sums lent are chargeable with stamp duty of 0·30 per cent.

Acknowledgments of amounts issued by the lender to the borrower require neither stamp nor registration.

RULES FOR THE CARRYING OUT OF THE BELGIAN LAW OF 15TH APRIL 1884 FOR AGRICULTURAL LOANS.

CHAPTER I.—LOAN OFFICES (COMPTOIRS AGRICOLES.)

* * * * *

3. The acceptance of persons willing to become members of a loan office rests with the administrative council of the general savings bank, in whom also is vested the right of granting loans.

5. Notwithstanding the unlimited liability * of each office, its members are personally and jointly bound towards the general savings bank for the repayment of all loans.

6. The offices must furnish security for loans granted through their agency: such security is taken in guarantee either of the mass of such operations or of one or more operations.

7. In case of any default made by a borrower the office is bound at once to pay up the sum due.

8. A share of the returns is granted to the office in return for its guarantee: the share proportion is fixed by the council of the general savings bank, subject to approval of the Minister of Finance.

9. In modification of the preceding sections, it is permissible to the savings bank to grant loans to agriculturists through the agency of land-owners, or joint stock, commandite, co-operative or other societies, on such conditions and guarantees as it may consider necessary and proper.

CHAPTER II.—LOANS SECURED BY THE SPECIAL PRIVILEGE.

10. Every proposal for a loan presented (on behalf of a borrower) by an office (to the savings bank) shall contain—

(1) a statement of all necessary items of information, dealing especially with the respectability and solvency of the candidate, and with the nature and value of the goods to be charged with the special privilege;

(2) with a signed copy of the resolution agreeing to the loan.

11. Repayment may be either in one sum or by instalments. The last payment must be made at least one year before the lease expires (when the borrower is a tenant).

When the office obtains from a landlord an assignment of his claim of priority, such assignment must be evidenced by a written deed of assignment.

The office is bound to ascertain whether there are or are not creditors who have precedence of the landlord.

12. (Formalities of execution and registration of the loan deed.)

13. Interest and instalments of principal are repayable at the registration † office where the privilege has been registered.

14. The general savings bank will send to the office a tabular statement giving all details of the loan, and the dates when interest and principal are due. All repayments will be entered up in this statement. The office must send a notice to each debtor at least 15 days before date of each payment due showing the amount due and the proper date of payment.

15. Each month the general savings bank will send to each registrar a file of receipts with a memorandum of the sums due by the several borrowers in each registration office.

16. On the day next after each due date, the registrar will send a notice to the office (comptoir) and to the savings bank of every case in which default has been made. He will also return to the savings bank all receipts not issued (by reason of default of payment) within eight days of due date.

17. The office must require each (tenant) borrower to prove within three months of its due date, that he has paid his rent.‡ The office will retain the rent receipts produced by such borrower, giving for them a proper receipt, and entering the fact on the tabular statement of the borrower's dues (section 14).

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* The office (comptoir) is an association intermediate between the general savings bank and borrowers. The office itself is the immediate guarantee to the savings bank, and is required to give security such as mortgages and the pledge of securities. In return for this guarantee and for its services, one-fourth of the returns are granted to the office as an honorarium. The office forms the local agency to the savings bank; borrowers address to it their requests for loans, and when such loan has been granted by the savings bank, it assists in all further operations. The office of course has the right of proceeding against any defaulter, but it is to the office that the savings bank addresses itself for the recovery of any defaults. The method is adopted to utilize the funds of the savings bank, to relieve the bank of the direct work of enquiry and of the responsibility for the loan, and to secure the exact and prompt repayment of all its funds. (*See* Vol. I, pp. 128–130.)

† The European registration office does not exactly correspond to that of India: registration is intended as a source of revenue and the office is partly, therefore, a revenue office, similar, apparently, in some ways, to Somerset House. Repayments, &c., are made at the registration offices because the savings bank in Belgium is a State institution.

‡ The object of this is of course to ensure that the bank shall not run any risk through the landlord's right of distraint for arrears of rent. This right takes priority over the special privilege of the bank.

18. The amounts received each month by the several registrars on behalf of the general savings bank will be credited to the savings bank by the treasury at the beginning of the subsequent month.

CHAPTER III.—(RELATES MERELY TO DEPOSITS OF BORROWERS IN THE SAVINGS BANK SUB-OFFICES, PENDING THE ARRIVAL OF EACH INSTALMENT DATE.)

(The further documents available are numerous, including especially (1) a notice by the council of the savings bank fixing the rate of interest upon loans at 4 per cent., of which one-fourth is payable to the comptoir; (2) a specimen form of agreement entered into by the parties uniting to form a comptoir; (3) a form of agreement between the comptoir as a corporate body and the general savings bank; (4) a list of the subjects of enquiry, under 21 heads, when a loan is sought; (5) a specimen form of loan deed, &c).

ITALIAN LAW OF 23RD JANUARY 1887.*

CHAPTER I.—LOANS AND CASH CREDITS.

1. In guarantee of loans granted to proprietors or tenants of rural farms by institutions † granting agricultural credit, a special privilege‡ may be established upon the crops of the year, upon the produce of such farms stored in the farm house and buildings, and upon the stock, implements, and furniture of the farm.

The same privilege may be established in guarantee of loans granted by institutions for agricultural credit to metayers and tenants-in-participation who have supplied the cattle needful for cultivating and manuring the farm, the provision for winter, and the implements required for cultivating the farm according to section 1655 of the Civil Code. This privilege is, however, allowable as regards the produce in the farm house and buildings and as to the crops of the year, only in so far as the share of the metayer is concerned, and not as to that of the landlord.

No § privilege can be allowed upon loans made to metayers who have not furnished for the farm the cattle and other matters indicated in the above-mentioned section 1655. Only where the proprietor with whom the metayer shares, has joined in obtaining the loan, can the above-mentioned privilege be established.

2. The privilege may be established either generally over the crops or over the live and dead stock of the farm, or over both the one and the other, or, specially, over particular and specified items of the classes mentioned in section 1.

3. The privilege is only validly established—

(1) when the contract is contained in a written document;

(2) when the document has been duly registered.

These privileges (*i.e.*, the documents reciting them) are registered *gratis* in a special register by the registrar of mortgages within whose jurisdiction the farm in question is situated.

Certificates (of registry) are delivered *gratis*.

4. (Assimilates the privilege to that of the landlord.)

5. The landlord of such farm has a preferential right (for his rent) over the lending institution, unless he has waived such right. But the landlord's prior right when in conflict with that of the lending bank, is restricted,‖ so far as the bank's claims are concerned, to the dues of the two preceding years, of the current year and of the next succeeding year when the lease bears a date positive.

6. (Omitted.)

7. If the loan is granted either wholly or partly for one of the purposes mentioned in paragraph 5 of section 1958 of the Civil Code, the institution may enjoy the privilege of preferential right sanctioned for such cases by section 1960 of the Code.

8. The privilege mentioned in the preceding sections ranks below mortgages previously registered, but above those subsequently registered.

If the money lent has been used to pay off creditors ranking before mortgage creditors, the lending bank succeeds to all the rights of such preferred creditors in accordance with sections 1253 and 1254 of the Civil Code.

9. The privilege lasts in each case for not more than three years. It may be renewed before expiry for a period not exceeding three further years. For such renewal a note is presented to the registrar reciting the intention to renew the privilege. Such renewal is (registered) *gratis*.

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* Corrected according to the law of 26th July 1888.

Sections are occasionally omitted, as they relate to legal rules, rights, &c., which are special to Italy, and would be unintelligible in India. A certain amount of freedom has also been taken in translating so as to be intelligible to Indian readers.

† The privileges mentioned in this chapter are granted only to 'institutions' granting agricultural credit, and not to individual lenders.

‡ The privilege or preferential right granted by this law is very similar to the right conferred by the English bill of sale, viz., a mortgage without possession of movables left with the owner: the bill of sale is habitually used in British, especially Irish, agriculture, and has become notorious in the hands of money lenders. The Belgian law, translated below, may also be read in this connection. See also the rules for the bringing this law into effect.

§ The reason for the distinction between this and the preceding paragraph is that in the former case the metayer (vāramdar) has a distinct and mortgageable property in the furniture of the farm, whereas the mere cultivator mentioned in the latter paragraph, puts nothing into the farm but his labour which is incapable of pledge.

‖ As the landlord's preferential right extends to four years' rent, there does not seem to be a residual value of much importance for the lending bank. Probably no bank will lend under these circumstances if the tenant is in arrears, especially as the landlord has a prior right even for the rent of a year not yet begun.

10. If the borrower alienates the goods subject to the privilege without substituting others, or allows them seriously to deteriorate, or abandons the cultivation of the farm, or in any way, whether by neglect or fraud, diminishes, to any marked extent, the security of the bank, the latter may claim the cancellation of the contract according to section 1165 of the Civil Code.

11. The privilege may be lawfully established in guarantee of one or more bills of exchange issued by the proprietor or tenant of a farm or by a metayer under the conditions mentioned in section 1, in favour of an institution granting agricultural credit, or of similar bills transferred by endorsement to such institution, or in guarantee of a cash credit opened by such institution in favour of a proprietor, tenant, &c., as above mentioned.

In such cases it is the commercial court which has jurisdiction in disputes regarding the privilege.

12. If the goods charged with the privilege are insured, any amount payable by the insurers in case of loss or damage, is charged in favour of the privilege according to its prority, unless such amount is employed in repairing the loss or damage.

13. The privilege takes rank amongst any charges or mortgages according to the date of registration.

14. Loan deeds * (contratti di prestito) are chargeable with half a lira stamp duty and 1 lira registration fee when below 1,000 lire in value; above that sum they are chargeable with half the ordinary stamp duty and registration fee.

Documents establishing the privilege (atti constitutivi del privilegio) are charged with half a lira and one lira as stamp duty and registration fee respectively.

15. The rate † of interest payable to institutions granting agricultural credit must not exceed that fixed by the Minister of Agriculture, Industry, and Trade, in concert with the Minister of Finance.

16. In all contracts not exceeding £60 in value, including bills of exchange and contracts binding only one of the parties, entered into under the preceding provisions, the mere mark of the borrower is valid if the borrower cannot write or is disabled from writing. But the document must in that case be attested by two witnesses entitled under existing laws to take part in such matters, and authenticated by a notary, mayor or judicial conciliator. Such authentication shall be gratuitous.

17. Any contract, which denies the benefits of the present law to any tenant or metayer, is *ipso facto* void.

Chapter II.—Mortgage Loans for Agricultural Improvements and Changes, and Loans to Associations.

18. Mortgage loans for land improvements and for agricultural developments within the meaning of this Act are those which are granted by authorized institutions ‡ to proprietors of farms and to associations legally established, for one of the following purposes :—

(1) the construction of buildings for the lodgment of cultivators and their families, for the protection of cattle, for the storage of crops and agricultural produce, and for the preliminary dealing § with such produce ;

(2) drainage and irrigation ;

(3) the digging of wells and provision of water-supply for men and animals ;

(4) the plantation of vines and fruit trees on bare lands whether in cultivation or otherwise, and on lands covered with scrub jungle (cespugliati) or unreserved wood ;

(5) the levelling and preparation of land, the construction of agricultural roads, the straightening and embanking of water courses ;

(6) all other operations which, in the opinion of the Agricultural Council, are declared by the rules (framed under the law) to be agricultural improvements.

19. To the end that loans under section 18 shall be admitted to the benefits, privileges, and exemptions of this law, it is necessary—

(1) that they shall have been granted for terms not less than three years, nor longer than 30 ;

(2) that they shall be extinguishable by instalments (ammortizabili ratealmente), with, however, permission to the borrower to pay off his debt before due date without the charges leviable in the case of ordinary land mortgages (by land banks) ;

(3) that the loan amount shall be issued by instalments according as the work progresses ;

(4) that the rate of interest shall not exceed the maximum fixed by the Minister of Agriculture, Industry, and Trade in concert with the Minister of Finance.

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* Apparently banks granting agricultural credit are granted privileged rates of stamp duty and registration fees for all loans relating to agriculture, whether the special privilege is established or not. But the section is not clear.

† This is a remarkable and apparently inadvisable provision. Probably it is intended to prevent mere associations of usurers from obtaining the benefits and privileges of the law while demanding usurious rates. It will be remembered that the Registrar of the Friendly, &c., societies in England expressly states that the loan societies under the English Loan Societies Act of 1840, are frequently mere usury traps, though enjoying large fiscal privileges. But the fixing of a maximum often leads to the practice of charging that maximum; the ignorant lender is beguiled into believing that the rate fixed as a maximum is the proper rate (dharma vatti).

‡ It will be noted that the present law only extends to loans granted 'by authorized institutions'; hence all individual lenders are excluded from the benefits of this chapter, and also all banks or societies which have not been duly authorized. The authorized institutions are mentioned in sections 29, &c., below.

Apparently the words 'for one of the following purposes,' apply to 'proprietors' as well as to 'associations' · the loans must be for one of the purposes mentioned, whether granted to individual owners or to associations.

§ *E.g.*, sheds for cleaning cotton before despatch to market, or for curing tobacco and turmeric, or for boiling down cane-juice into jaggery, would, in India, come under this head.

20. [Provides that a mortgage given by a proprietor as security for an agricultural advance by means of *a cash credit* * shall take rank (among other charges) from the date of registration.]

21. The ordinary rates of stamp duty and registration fees are reduced to one-half for documeuts made under this chapter including those made under section 20 (relating to cash credits).

22. In contracts admitted to the benefit of this law, the lending institution may acquire in its favour a special privilege over the *plus*-value which has resulted to the farm from the improvement effected by the loan When it enjoys this privilege it takes precedence over all creditors though registered prior to the date of the loan,† without prejudice to its rights under the ordinary law as mortgage creditor for any balance.

For the validity of this privilege it is necessary to enter it specifically on the margin of the entry of the mortgage in the registration books.

23. It is also necessary for the validity of the privilege, that within 60 days from the date of registering the mortgage deed, a report on the condition of the farm before the improvements, shall be drawn up by an expert for the Judge of the civil court at the instance of the contracting parties, and deposited in the records of the civil court having jurisdiction.

A similar report is to be sent within 60 days from the date of completion of the work in order to prove the amount of the *plus*-value which has resulted from the improvement.

A public copy of each of the reports must be sent to the registration office to be filed with the entry of the mortgage deed.

(Other paragraphs require that a notice regarding the first and second reports shall be twice advertised in the local gazette, that the work shall not be begun till the expiry of one month without notice of objection after the advertisement regarding the first report, nor shall the second report be considered irrebuttable till the expiry of a similar period without such notice.)

24. Should the loan amount be expended otherwise than on the proposed improvement, or should the value of the improvement be allowed to deteriorate by at least one-tenth through the fault or fraud of the owner, the institution shall be at liberty to claim the cancelment of the contract as per section 1165 of the Civil Code.

In such case the court which decrees the cancelment shall of necessity order that the borrower shall lose the benefit of the reduction of stamp duties, registration fees and taxes on the mortgage.

If the creditor does not move for the rescission of the contract the revenue authorities may obtain an order from the magistrate in the sense of the preceding paragraph.

25. In all cases under the present law the lending institutions shall enjoy the privileges of procedure possessed by institutions of land credit for the collection of their dues.

26. Associations ‡ which enjoy fiscal privileges in the collection of their dues, are permitted to charge particular (classes of) contributions by way of mortgage, as security for any loans contracted by them for one of the purposes mentioned in section 18.

Such loans can only be contracted with the previous approval of the provincial (district) authorities, and an ordinance to that effect must be attached to the contract deed and form an integral part of it.

27. Should any association which has borrowed as in the preceding section, for any reason omit to impose upon its joint funds the contributions necessary to pay off its debt, the provincial (district) authority shall, as of right, order the entry in its accounts of the sum due, and shall then proceed to collect the same either by the village tax-collector or by a special officer, all charges being debited to the association.

28. (Omitted.)

Chapter III.—The Grant of Agricultural Credit and the Issue of Agricultural Debentures. (Cartelle Agrarie.)

29. Ordinary credit banks, co-operative banks and savings banks, singly or associated, are authorized § to grant agricultural credit in conformity with Chapters I and II of the present law.

30. Government may, by royal decree, in conformity with the present law, grant permission to the above-mentioned institutions to issue agricultural debentures (cartelle agrarie), repayable by amortization (sinking fund) and bearing interest, to the amount of five times their capital either paid up or specially assigned to agricultural loans, provided that they are in possession of mortgages || for an amount equal to half of the said paid up or assigned capital.

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* Loans by means of cash credits are not subject to the restrictions mentioned in section 18 though guaranteed by a mortgage, for they do not come under the conditions mentioned in section 19. Hence an advance by cash credit may be used for any agricultural purpose, and if so used, will receive the benefits of this law, viz., those of section 21.

† This is a general provision in the matter of loans granted for improvements, since the security of other creditors is, in fact, improved by the employment of the loan.

‡ Apparently this includes not merely communes, but associations for irrigation, agricultural societies, &c. In Germany and France, and, apparently, in Italy, there are numerous drainage and irrigation associations of compulsory and voluntary formation.

§ Under section 1 it is only 'institutions' which obtain the benefits of the present law, and only those institutions which have been 'authorized.'

The words 'ordinary credit banks' (istituti di oredito ordinario) are very vague, and would let in those societies (so-called) of usurers which it is the object of the law to exclude; it is only necessary, as in this Presidency, for a money lender to form a 'oompany' with half a dozen men of straw and call himself a bank, to obtain the benefits of the law as an 'institution of ordinary credit;' *cf.* the English Loan Societies under the Act of 1840.

|| Presumably the word mortgage (ipotecari) inoludes loans enjoying 'privileges' under this act, though M. Durand is of a contrary opinion. The English bill of sale, which largely corresponds to the privilege sanctioned by this law, is a mortgage withont possession of movables. Possibly, however, only land mortgages are intended, as being solid guarantees for the "cartelle agrarie."

It will be observed that the debentures are secured (1) by mortgages to the amount of half the capital, (2) by the mass of loans enjoying the privileges created by this act.

The mortgages, which must have previously been accepted without any corresponding issue of debentures, must be replaced by similar mortgages as soon as any are paid off.

The institutions must, as soon as they have been authorized to issue agricultural debentures, create such debentures of a value equal to that of the above-mentioned mortgages; these shall be kept in the safe of the institution, and replaced as soon as any are issued by similar new ones.

All mortgages registered in favour of the above institutions, are assigned, as preference securities, in guarantee of the interest and repayment of the debentures. The debentures retained in the safe are, moreover, specially assigned in guarantee of the debentures in circulation.

31. The Government may, by royal decree, authorize the grant of agricultural credit and the issue of agricultural debentures by mutual associations of proprietors, provided that the aggregate value of their estates shall be not less than £120,000.

The articles of such association to be approved by the above decree on the motion of the Minister of Agriculture, &c., must recite the conditions to be fulfilled by the members, and the amount of the working capital.

32. Agricultural debentures shall issue in representation of loans made, whether under Chapter I or Chapter II of this law *: but their nominal value shall not exceed that of the sums actually paid over to the borrowers.

The duration of such debentures may be indeterminate. Debentures issued against loans made under Chapter I may mention a definite date at which they shall be repaid. Institutions issuing debentures must withdraw and cancel debentures without definite date, in proportion as the loans which they represent are repaid and to an equal value.

Agricultural debentures shall bear the name of the issuing institution, their date and serial number.

A special set of rules, issued by royal decree after approval by the Council of State, shall determine, in consonance with this law, the details regarding the creation, issue and recall of their debentures.

33. Loans shall always be paid over in cash. The agricultural debentures shall be registered by the issuing institution. But Government may authorize agricultural credit institutions to pay the amount of the loan in debentures.†

34. Institutions authorized to deal in loans and to issue agricultural debentures may be represented by special agencies, or by associations of proprietors and tenants of farms, and may delegate to them, as also to credit institutions whether ordinary or co-operative, and to savings banks, their powers as regards all operations of agricultural credit.

35. For the purposes of this law institutions authorized to issue agricultural debentures are placed under the supervision of the Minister of Agriculture.

They must send to such minister monthly returns showing the movement and financial position of their debentures.

36. Institutions and saving banks which grant credit in conformity with Chapter I of this law may without cost transfer their claims as creditors to other institutions or savings banks which have the right of issuing agricultural debentures These latter institutions may then issue agricultural debentures against the claims thus transferred.

37. The fees due to the registrars of mortgages and to notaries for all operations under this act are reduced to one-half of the legally sanctioned fees.

38. All banks of issue may be authorized by royal decree to grant agricultural credit under this law.

39. The Government may authorize the transformation of grain lending institutions ‡ (monti frumentarii) into single or joint associations for agricultural credit working under the present law.

(Sections 40 to 43 are omitted, being transitory or local in their nature.)

RULES § FOR CARRYING OUT THE ITALIAN LAW OF 23RD JANUARY 1887 REGARDING AGRICULTURAL CREDIT.

Chapter I.—Loans and Accounts Current.

1. The document on which, according to section 3 (1) of the law, the special privilege is based must contain—

(1) an exact mention of the status of the borrower whether proprietor, tenant, metayer or tenant in participation of the farm ;

(2) a description of the goods and produce over which the privilege is established ;

(3) a statement of the precise rights enjoyed by the borrower over the said goods or produce ;

(4) an express mention of the privilege and its duration, and a reference to the sections of the law relating to it, whether paragraphs 1, 2, or 3 of section 1, or section 2 of the law ;

(5) a statement of the amount for which the privilege is established, the interest agreed upon and the object to which the sum borrowed is to be devoted as per section 7 of the law ;

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* The debentures are thus of two classes and have two different guarantees: the one set are based on loans guaranteed by the privileges (bills of sale) of Chapter I; the other on mortgages under Chapter II. See the rules of 1888 ; pp. 52 and 53 *infra*.

† In most of the German Landschaften the loans are issued in debentures, which the borrower cashes at the market rates.

‡ *See* Vol. I, pages 195–196. This section is the result of the proposals to transmute these ancient and useful institutions into mere money-lending banks, a change of doubtful present utility.

§ Such rules as are not of importance for the purposes of this report, are not translated.

(6) a note whether the privilege is in guarantee of bills of exchange or of an account current.

When the goods or produce may, by special arrangement, be moved to places other than the farm to which they belong, express mention must be made of the fact.

* * * * *

5. The maximum interest chargeable by each lending institution under section 15 of the law will be fixed annually or oftener by the Minister of Agriculture, Industry and Trade, in concert with the Finance Minister, and after taking the opinion of the several institutions. Within such limit the institutions may fix their own rates, which must be notified to the Minister of the Agriculture, &c.

Chapter II.—Mortgage Loans for Agricultural Improvements.

6. Mortgage loans granted under this law may be granted for the following in addition to the objects mentioned in section 18 of the law, viz. :—

(1) the fencing of the farms ;
(2) the digging and systematizing of drains;
(3) the formation of new vineyards, olive-yards, mulberry and orange gardens ;
(4) the introduction of high farming with the necessary implements;
(5) the amelioration of the soil;
(6) the embankment of slopes and plains;
(7) forest roads;
(8) re-afforestation;
(9) vats for retting fibre plants.

7. The mortgage deed must contain—

(1) a statement of the improvements, &c., to which the loan amount is destined;
(2) a description of the farm offered in mortgage ;
(3) the duration of the loan, the number, amount and date of each instalment in repayment;
(4) rules for the issue of the loan by instalments corresponding with the progress of the work ;
(5) the date of interest ;
(6) the establishment, when such is the case, of the special privilege over the *plus*-value resulting to the farm from the improvement effected by the loan, in accordance with section 22 of the law ;
(7) a note of the order of the provincial (district) authority when the loan is one granted to an association and secured by the assignment of the common subscriptions, as per section 26 of the law ;
(8) the declaration of prior creditors as per section 28 of the law ;
(9) a statement of the domicile selected by the borrower for court purposes.

Chapter III.—Agricultural Credit Operations and Agricultural Debentures.

* * * * *

12. In order to obtain the power to grant agricultural credit under section 31 of the law, mutual associations of proprietors must forward to the Minister of Agriculture, &c.—

(1) the memorandum of association of the society;
(2) the articles mentioning the duration of the society, a summary with valuation of the immovable property contributed by each member, the conditions of association, the amount of the working or guarantee capital, as per section 31 of the law;
(3) a report on the above immovables made by two experts appointed for the purpose by the civil court on the motion of the parties.

The above properties must be free from mortgages, or at least such portion of them as amounts to the required value of £120,000, and must be such as will yield a fixed income during the whole term of association.

13 to 19 contain rules regarding other societies.

20. After the Minister of Agriculture as ascertained that the institution which requests permission to issue agricultural debentures, has fulfilled all legal requirements, he will obtain a royal decree authorizing such issue, the opinion of the Committee for Agricultural credit mentioned in the following section being first considered.

21. Upon the motion of the Minister of Agriculture a royal decree shall establish a consultative committee * charged with the duty of giving its vote on matters relating to agricultural credit.

22. The details relating to the issue and withdrawal of agricultural debentures are settled by a special set of rules.†

23. The Minister of Agriculture shall annually present to Parliament a report on the operations of agricultural credit.

RULES ‡ RELATING TO AGRICULTURAL DEBENTURES, DATED 27th MAY 1888 AND 10th JANUARY 1892.

Chapter I.—Issue of Debentures.

[Agricultural debentures are of two classes : (1) those issued under chapter I, (2) those issued under chapter II of the law. They are to be of different colours, and their nature legibly printed.

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* See the decree, dated 5th September 1888, translated below.
† See rules next following, dated 27th May 1888 and 10th January 1892.
‡ The rules being lengthy are abbreviated and many are omitted.

They are to be taken from a stub with counterfoils and serially numbered and dated; both stub and debentures are to be duly signed by officers of the issuing institution: debentures under Chapter I shall have a face value of £4, and under Chapter II of £8. They may be either to bearer, or personal (nominative): the interest coupons may be to bearer in both cases, and shall be numbered to correspond with the debentures.

In issuing debentures under Chapter I the following is the rule: the institution effects loans with the half of its capital paid up or specially assigned for the purpose, and at the same time creates an equal quantity of debentures which it retains in stock. As new loans are granted these debentures are successively issued to the amount of the loans and at the same time fresh debentures are created to a similar value and placed in stock.]

Chapter II.—Transfer, Exchange, and Issue of Duplicates.

* * * * *

Chapter III.—Withdrawal and Repayment.

[The rules provide for a half-yearly public drawing by lot and for purchase in open market; the amount withdrawn must equal the amount paid in during the half-year on account of the capital of loans. Prior to each drawing the bank must (rule 28) send to the Minister of Agriculture a statement showing (1) the value of loans and debentures outstanding; (2) their dates of issue and expiry; (3) the amount paid in on account of the capital of the loans (sinking fund); (4) the value of debentures bought in by the bank during the half-year; (5) the amount of any loans. The amount shown in (3) less (4) gives the value of the debentures to be withdrawn by lot.

The drawings must be in presence of a Government agent with the usual precautions and formalities, as prescribed by the Minister of Agriculture. The debentures drawn must be presented with the unexpired interest coupons; the value of any missing coupons will be deducted at payment, but the bank will then pay the value to any person who presents them. All debentures drawn by lot will be repaid in cash at par. The details of this and the preceding chapter are unnecessary for the present appendix, which is not intended as a manual.]

Chapter IV.—Government Supervision.*

37. Institutions granting agricultural credit together with the issue of debentures are, so far as such business is concerned, placed under the supervision (vigilanza) of the Minister of Agriculture, Industry, and Trade, who exercises such supervision through delegates; these have the right of inspecting all the books and documents relating to such business.

38. Institutions authorised to issue agricultural debentures are bound immediately to communicate to the Minister all resolutions of their directors on operations under Chapter II of the law.

39. At the end of every month each such institution must, according to section 35 of the law, send to the Minister a statement of the movement and financial position of the debentures; this statement must be drawn up in the form prescribed by the Minister and must show for each series of debentures the number and value of debentures held permanently in the safe, the value of the loans actually granted during the month; the number and value of debentures taken from the safe and issued in representation of such loans, the amount of debts repaid to the institution; and the losses of the month.

40. The above institutions must also despatch to the Minister: (1) the annual balance sheet; (2) a statement of the mortgages in arrears or in dispute; a statement of the loans carrying the privilege mentioned in Chapter I of the law not paid up at due date or in dispute. They must also furnish any other information called for.

41. The Minister is entitled to subject all such institutions to periodical inspection by means of his delegates. Such inspections shall specially ascertain (1) the actual existence of mortgages to the value of half of the capital paid up or specially assigned as per section 30 of the law, and the correspondence of such loans with the amount of debentures held in the safe; (2) the correctness of the tables and statements mentioned in rules 28, 39 and 40 *supra*, in view to ascertain the equilibrium between the debentures and the loans granted, and the regularity of the bank's methods; (3) the fact of the cancellation of the withdrawn or paid off debentures. These inspections must take place at least quarterly.

DECREE ESTABLISHING UNDER THE MINISTER OF AGRICULTURE, &c. (ITALY), ; A CONSULTATIVE COMMITTEE FOR AGRICULTURAL CREDIT, 5th SEPTEMBER 1888.

1. A consultative committee for agricultural credit is established in the department of the Ministry of Agriculture.†

2. The duties of the committee are :—
   (1) to give an opinion upon the requests of institutions granting agricultural credit which propose to issue agricultural debentures;
   (2) to study any developments which may be feasible in the organization of agricultural credit;
   (3) to give an opinion on such other matters pertaining to that subject which may be laid before them by the Minister of Agriculture.

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* The nature of this supervision while defective in many respects, seems unnecessarily exacting in others, as in the nature of some of the returns required.

† The deliberations of this committee are valuable and are regularly published by the Minister of Agriculture.

3. The committee is composed of 12 members, appointed by royal decree and retaining office for three years ; one-third resign each year with faculty of re-appointment. Resignation is determined by lot in the first three years. The Director-General of Agriculture, and the director of the section on Industry, Trade and Credit are *ex-officio* members.

A Commissioner appointed by the Minister (of agriculture) for the supervision of credit institutions, shall hold the office of secretary to the committee, and shall have a voice in the committee but not a vote (con voto consultivo).

The committee shall choose annually its chairman and vice-chairman.

4. The office of member is unpaid. Members who do not live in Rome shall receive their actual travelling expenses and a daily allowance (during meetings) of 15 lire (12′ 6).

5. The meetings of the committee shall be convoked by the Minister, who will indicate the subjects for discussion.

6. The minutes of the meetings shall be published in the "Annali del credito e della previdenza."

LAW RELATING TO AGRICULTURAL CREDIT IN ROUMANIA (1881).*

Chapter I.—Character, Object and Duration of the Loan Offices.

1. In the chief town of each district shall be established an Agricultural Loan office ; each office shall be independent of the others, and have the status of a society.†

Each office may establish within its district central or communal agencies.

2. (Duration only 20 years, renewable with the permission of Government.)

3. These loan offices are to provide agriculturists and rural industries with the necessary capital.

Chapter II.—Capital.

4. The capital of each office shall be from £6,000 to £12,000, as determined by Government according to the needs of each district. Such capital may be increased by resolution of the general meeting, confirmed by Government.

5. The capital shall be divided into shares, which shall be personal, and can only be held by Roumanian agriculturists or rural labourers (industriels agricoles).

6. Such shares form a charge upon the assets of the office, and are entitled to participate in the profits.

7. Until such shares are fully paid up, the capital of each office will be contributed free of interest by the State and by district funds, viz., two-thirds by the former, and one-third by the latter, on which proportionate dividends will be paid.

These advances will be re-paid in due proportion as the shares are paid up.

8. An office shall be declared open and entitled to begin business as soon as its capital shall have been paid up, whether by the State, by the district, or by shareholders.

9. From the net profits shall be formed a reserve intended (1) to cover any losses of capital ; (2) to supplement the annual dividend till it shall reach a total of 5 per cent.

10. The reserve shall be formed from an annual retention of 10 per cent. of the net profits.

11. When the reserve shall have attained the amount of one-tenth of the capital, the retention mentioned in section 10 may cease, but shall be renewed should the reserve fund be impaired.

Chapter III.—Organization and Administration of the Loan Office.

12. The administration is entrusted to a manager elected by the general meeting for five years, and re-eligible. He must deposit, as guarantee, shares of the society amounting to one-fortieth of the capital.

13. The manager shall be supervised by the commissioners, of whom two shall be elected by the general meeting, and one by Government: all for five years.

14. The manager and commissioners shall be salaried.

15. Until the society is fully constituted, the manager and two of the commissioners shall be appointed by the State, and the third commissioner by the district.

16 and 17. (Relates to the general meeting : each share has a vote up to a maximum of five.)

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* Translated into French from Roumanian by M. Louis Durand (Lyons), Secretary-General to the Fourth Congress of the 'Popular Banks of France,' 1892, to the report of which the above law forms an appendix.

The law was not successful ; more than a dozen modifications were made up to 1887, necessitating in 1891 a fresh bill, which is translated below, and, eventually (1894), a new law, also translated.

† The loan offices were to be joint stock societies, yet *quasi*-public, working under the control of Government, with certain large privileges ; the system was doomed to failure from the beginning, for while the State desired the benefit of the peasant, the offices sought the profit of their members ; hence antagonistic views and methods : in the words of the "statement of objects and reasons" to the new bill "the joint stock society is a trader which cares little for the needs of the people ; in season and out of season it demands the satisfaction of its claims without pity or consideration, while profiting by the privilege which enables it to obtain its dues by summary process." (*See* section 33 of the law ; also *see* Vol. I, p. 132).

18. The Minister of Finance shall always be entitled to examine the affairs and administration of the society.

19. (Officers of the society who deal with its funds are to be regarded as public servants in so far as regards responsiblities and penalties.)

20. The shares shall be of £4.

Chapter IV.—Business and Privileges of the Loan Offices.

21. Loan offices shall undertake only the following business, viz. :—

(1) The discount and negotiation of the bills of agriculturists and rural labourers;
(2) The lending upon the pledge (*see* section 27) of agricultural produce and stock, or upon the produce and stock of industries dependent upon agriculture;
(3) The receipt of deposits or savings from agriculturists and rural labourers;
(4) The grant of loans to such persons on the deposit of Government paper, or of securities guaranteed by the State.

22. The offices shall not demand more than 7 per cent. per annum as interest except when the rate of discount at the National bank exceeds that rate.

23. (Omitted.)

24. The offices shall not lend for terms beyond nine months.*

25. Loans shall be based upon bills to order signed by two solvent agriculturists or rural labourers who shall be jointly responsible.

26. Sums paid in on deposit or as savings shall bear interest, and when they reach the value of a share may be converted into a share.

27. In substitution for sections 1685 and 1686 of the Civil Code the delivery † of a pledge shall for the purposes of the loan offices, be considered as made when the agreement has been executed and from the date of its registration, in so far as regards standing trees, produce of the soil of all kinds, whether still attached to the soil or separated from it (*i.e.*, crops whether standing or reaped), whether stored in the cellars, barns, and granaries, or lying in the open, whether standing in sheaves, heaps and stacks, and generally, as regards all bulky goods which are difficult to transport and warehouse.

The delivery of a pledge shall be similarly regarded as though actually made in respect of the cattle and farm implements which cannot be removed from the farm without injury to its working.

28. The above privilege shall not be binding as against third parties until the date of actual registration in a special register ‡ to be kept for the purpose in the village in which the goods are situated.

29. On the expiration of the loan, the property pledged may be sold (by the office) without resort to a court, and in conformity with the provisions of this law (*i.e*, in case of any arrears on such loan).

30. A debtor who shall wilfully and in bad faith alienate, waste, remove, or allow the loss of any goods pledged under these provisions shall be punished for breach of trust.

31. Loan offices shall enjoy in respect of debts due to them, a special privilege (prior claim) over the movables entered in sections 26 and 27 (*i.e.*, over the deposits in the office, and over the farm stock, produce, &c., of the debtors).

This privilege shall take rank immediately after the claims due for court fees, for funeral expenses, and for the custody of the goods in question.

32. Every act of borrowing from a Loan office will be considered as an 'act of commerce.' All parties to such borrowing shall be liable to the jurisdiction of the Commercial Court, but Chapter III of the Code of Commerce shall not be applicable to them. §

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* This period is much too short as a maximum, and the law does not provide for any prolongations.

† This section and those following up to 31 inclusive provide for the pledge without actual delivery, of movables, &c., mortgaged for a loan, after the manner of Italian and Belgian special laws, translated immediately above, and of the English bill of sale.

‡ The following rules appear in the Government set of rules framed under section 35 :—

71. The manager must send to the mayor of the commune (head of the village) in which the goods are situated, a request for registration, together with an extract from the loan deed showing the name and address of the debtor, the sum due, the number or quantity, description, &c., of the goods charged.

72. For carrying out the provisions of rule 70 (the same as section 28 of the law) the mayor of each commune shall keep a special register, in the first column of which he will enter, word for word, the extracts sent to him by the Loan office. In the second column will be entered partial and complete discharges of the goods from the claims of the office. [This rule may be compared with the rules regulating communal societies for purchasing cattle in Canton Thurgau (Switzerland): *see* Vol. I, pp. 161 and 162].

In this register all modifications of the original contract shall be entered by marginal note.

After registration the mayor must send to the manager a certificate of the registration, showing its date, serial number, and page of the register.

The registers must be signed, sealed and initialled (on each page) by the Chief Judge of the Commercial Court, or of the Civil Court where there is no Commercial Court.

These registers shall be open to the inspection of the public, and certified extracts may be granted.

73. Mayors who do not carry out the provisions of the previous rules are responsible for all losses caused by such failure. If they make incorrect transcriptions in these registers they will be liable under the Penal Code.

74. The formalities recited in the foregoing rules are exempt from stamp duty, registration fees, &c., in conformity with section 34 of the law (*i.e.*, for five years only).

75. The goods charged must be insured if there are in the neighbourhood any societies which undertake such insurances.

A loan of this class can only be granted after a previous valuation of the goods, which shall be made by special valuers belonging to the office, assisted by the mayor of the commune.

§ Apparently this is similar to Chapter III of Book I of the Italian Code.

33. Execution upon the goods of a debtor shall be levied in conformity with the law of distraint or dues to the State.*

34. The business † of a Loan office (les operations des caisses) shall be exempt from stamp duty for the first five years of its existence.

35. A public ‡ set of business rules, sanctioned by royal decree, shall regulate the application of this law.

BILL FOR THE PROVISION OF AGRICULTURAL CREDIT (ROUMANIA).§

1. An Agricultural bank shall be established at Bucharest, with a branch in the chief town of every district.

2. The bank shall comprise two divisions: the one for lending to agriculturists and rural labourers the capital necessary for agriculture and for the industries dependent on it; the other for lending to agriculturists under the law of 1889 (*i.e.*, to peasants who have bought State lands and require capital either for working the lands or for redeeming the perpetual rent-charges).

Capital.

3. The foundation capital of the bank shall, for the first division, be £800,000 entirely paid up by the State. (*N.B.*—The capital was fixed at this sum because it represents the total loan issue under the former law.)

4. The capital for the second division shall be procured by opening a cash credit with a bank, preferably the National bank, which may rise to £120,000, and shall be repaid by the State by an issue of stock. Should larger sums be required the bank may obtain an authorization from the legislature for an increase of the cash credit.

5. From the annual net profits, arrived at by deduction of all expenses, as shown in the balance sheet, 10 per cent. shall be set aside to form a reserve; the remainder shall be paid over to the treasury.

6. When the reserve attains the amount of one-fourth of the capital of £800,000, the share set aside for the reserve may be discontinued, but shall be renewed should the reserve be impaired.

Organization and Management.

7. The agricultural bank shall be managed at its Central office by a director, with a sub-director, both appointed by the Minister of Finance under royal decree, and by a staff as indicated in the statement below (section 13). Branches will be managed by a manager and staff as mentioned below.

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* Probably this is not unlike the Italian Law for the distraint of goods for sums due to the State: *see* translation of certain sections of that law in this appendix.

The following are the Government rules on this point:—

81. If the loan is not repaid at due date the manager of the Loan office shall forward to the Collector (Caissier-Général) of the district an extract from the loan contract together with a request for execution against the defaulter.

The Collector is bound at once to enforce execution under the formalities enjoined by the law for recovery of revenue, until the arrears are paid over to the revenue officers (les agents du fisc). Such payments shall at once be made over to the Loan office which shall give the necessary voucher.

82. (All steps are to be taken and objections disposed of in accordance with the revenue recovery law.)

It will be noted that the above privilege is due to the *quasi*-public nature of these so-called Joint Stock Societies. They were formed subject to Government rules, under Government supervision, and their management was under Government control; hence the almost unique privilege of recovery of dues through Government revenue officers.

† This provision is not clear, for the public rules issued by Government under the next section provide, in rule 84 that "the loans borrowed *by* the Loan offices (contractés parles caisses) shall be exempt from stamp duty for five years. Possibly the words 'les operations des caisses' refer only to borrowings by an office, and not to loans made by it. Rule 74 (*q.v.*) also provides certain exemptions, but no others are mentioned in the rules.

It is, however, to be noted that in Italy the laws of 1874 on stamps and registration seem clearly to exempt all operations of a co-operative society from stamp duties and registration fees for the first five years of its existence. The heading to section 26 of the stamp law is as follows:—"Exemption of co-operative or mutual societies from every "stamp duty ('da ogni tassa di bollo') for five years from its foundation, provided that its capital does not exceed "£1,200." A similar note is made to section 148 of the law relating to registration fees (sulle tasse di registro). These exemptions are expressly continued for co-operative societies in the amendment law of July 1887. Hence, it is probable that the Roumanian law grants a similar privilege.

‡ This set of rules has the force of law and is issued in completion of the law by royal decree: it is not a set of rules issued by the bank. Rule 99 says: "The societies for agricultural credit (Loan offices) shall work in conformity with the law, and with the present set of rules which shall serve instead of articles. But a society may provide its own special set of articles as soon as it has repaid to the State and to the district the whole of the amount granted to it as foundation capital."

The only rules needing translation are those printed as foot-notes to sections 27, 28 and 33.

§ As already stated, the law of 1881, in spite of its dozen amending Acts, was a failure; the so-called Joint Stock Societies, intended as Loan offices, were not satisfactorily formed, for the public did not take up their shares, while the action of the societies in following up their dues was considered as opposed to the interests of the peasants. Hence in 1891 (?) the Government proposed a new law of which the text is here given.

The text of the previous law has been given rather as an object lesson in failure, than as an example for imitation. The provisions of that law are not very dissimilar from proposals made at various times for India, and the failure of the law, with its resulting cost to the State, carries a suggestive lesson for India. Moreover, the provisions of this attempt at *quasi*-State credit are objectionable from other points of view, in that they aim merely at cheap credit, and not at the reformation of habits and customs through the powers of association, of self and mutual help, of thrift and prudence, &c.

The provisions of the bill appear equally unpromising of real success. The leading idea is a Central Government institution with a branch office in each district: the old *quasi*-public Joint Stock Societies are abolished, and an attempt is to be made to substitute purely State banks. The attempt seems objectionable in almost every way.

8. (Persons who may not be appointed to the posts mentioned in section 7.)

9. All officers of the bank whose monthly pay amounts to £6 or more shall be appointed by royal decree.

10. All officers of the bank or public servants, and are entitled to pension in common with other public servants, their pay being subject to the usual deduction, according to the law regarding pensions.

11. The director is charged with, and is responsible for the management of all business. He is, moreover, the Inspector-General of all the branch offices, and for such purpose has the same rights as the State Inspectors of Finance. The sub-director works under the orders of the director, and acts for him in case of necessity.

12. The Minister of Finance may, by his inspectors and sub-inspectors, examine at any time the business and management of the branches.*

13. (Statements of the staff and their pay.)

A royal decree shall appoint 64 auditors for the whole territory, who shall be distributed among the branches by the Minister of Finance.†

14. The directors of the branch offices shall deposit security of £200 in Government paper (their pay is to be £240.)

15. Persons entrusted with the charge of the funds of the bank in any way are responsible as though entrusted with public funds.

16. (Omitted.)

Operations and Privileges of the Agricultural Bank.

17. The agricultural bank shall only deal in the following business :—

(1) in loans on pledge of cattle, produce and agricultural stock, and of the produce and implements of industries dependent upon agriculture ;

(2) in loans to peasants for the purchase of cattle, seed and agricultural implements. These loans shall only be made upon the signature of the borrower and the security of two other solvent inhabitants of the village, and upon an agreement that the cattle, seed and implements shall be pledged ‡ to the bank within 15 days (of purchase). Failure to make such pledge will render the borrower liable to the penalties for breach of trust, punishable under the Penal Code ;

(3) in the receipt of deposits on account current and of savings deposits from agriculturists and rural labourers ; §

(4) in advances to such persons upon the deposit of public securities or paper guaranteed by the State ;

(5) in such business as may be entrusted to it by the National bank, pending the establishment of district branches by the latter, as well as in such business as may be turned over to it by the insurance companies for the insurance, by borrowers from the bank, of agricultural and industrial implements, stock and produce.
Bills in acknowledgment of a debt based upon pledge shall be negotiable and transferable by endorsement.

(6) (in loans under the second division of the bank ; these are payable to the borrowers by instalments.)

18. The bank is prohibited from engaging in any other business than that recited in section 17, and may hold no immovable property save such as is absolutely necessary for its business.

19. No advance to any single person shall, whether granted in one or more loans, exceed £40. ||

20. The bank shall not charge interest at more than 5 per cent. above the rate of discount current at the National bank, and in no case shall such interest exceed 10 per cent. ¶ without the consent of the Minister of Finance.

Debts not settled at due date shall pay at the rate of 2 per cent. per annum in addition to the contract rate.

No other charge whether under the title of expenses of administration, commission, &c., shall be made, save only such charges as may become due under the law of distraint.

21. The rate of interest may, with the consent of the Minister of Finance, be changed quarterly.

22. (Omitted.)

23. The bank may lend upon pledge only for terms of three, six, or nine months at the choice of the borrower, except in the case of loans under section 17 (2) for the purchase of cattle, &c., which may be made for periods up to three years, and in the case of those under 17 (6) which may be repayable by annuities.

24. Deposits by private persons shall bear interest as determined by the bank with the approval of the Minister of Finance ; in no case shall such interest exceed the rate of discount at the National bank.

25. In substitution for the provisions of the Code of Commerce, loans under section 17 (2) are at due date demandable and leviable without notice, summons, or other judicial process whatsoever, but solely by ordinary distress as by the law for the recovery of revenue.

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* The Bill does not give power to inspect the bank itself : this is probably a clerical error, since no other form of supervision is provided in the bill, so that the director would be wholly uncontrolled.

† Since two auditors are allowed for each branch, there are apparently 32 districts in the kingdom of Roumania.

‡ *Cf.* the practice in Thurgau, Switzerland, and under the Irish Loans Act of 1843 ; *see* p. 162 of Vol. I.

§ The bank excludes deposits from non-agriculturists : the reason is not clear.

|| This sum was fixed upon because the experience of the societies under the law of 1881 showed that this was a very general maximum.

¶ The maximum under the Act of 1881 is 7 per cent. : apparently this was found too low.

26. The live stock, seed, and agricultural implements bought with the sums advanced by the bank under section 17 (2), may not be alienated or pledged to third parties, or seized in execution (*i.e.*, for debts due to third parties) until after the complete payment of principal and interest to the bank.

27. (Similar to section 27 of the law of 1881, *q.v.*)

When the goods pledged may have been transformed by an industrial process, the new product shall be considered as the security of the bank.*

28 to 33. (Similar to the corresponding sections of the law of 1881.)

34. Demands and bonds for loans obtained from the bank shall be exempt from stamp duty.

All correspondence with and applications to Courts and processes issued at the request of the bank are exempt from stamp duty, but the bank must pay the special tax granted to bailiffs, and the cost of publications in the official gazette as required by the revenue recovery law.

35. All letters and packets of the bank, and all addressed to it by the authorities or by the National bank shall be free of postal charges.

36. The revenue collectors of the State shall serve as agents † of the bank for the purposes of valuation, verification and collection, and for the renewal and execution of contracts.

They shall be granted such remuneration as shall be fixed by the Minister of Finance.

37. Collectors, mayors, and notaries shall be liable civilly and criminally for any infraction of their duties. The bank shall enjoy a prior claim (privilege) over the property of these officers, which shall take rank immediately after that of the State.

38. (Omitted.)

39. The deeds of the bank shall be authenticated, upon demand of the parties, by the mayor of the village where the borrower resides.

When such mayor ‡ can neither read nor write the document will be authenticated at the request of the parties by the deputy-mayor, or by any literate village councillor; if all are illiterate, it shall be authenticated by the judge of the canton in which the borrower resides or in which the branch office is situated.

The bank need not be represented before the authority which authenticates the deed, which may be verified by the authority in the sole presence of the borrower.

Temporary Provisions.

40. The Minister of Finance will repay (to share-holders) the value of the shares issued up to date, and will return to the districts (district councils or boards) the sums advanced by them, he will also put into liquidation the existing societies for agricultural credit.

LAW OF 1st APRIL 1894 ESTABLISHING AN AGRICULTURAL BANK (ROUMANIA).§

1. The present law authorizes the establishment of an agricultural bank for the purpose of assisting agriculturists with short term loans, to be granted with or without the pledge of produce, cattle, and agricultural stock.

2. The capital of the bank shall at first be £200,000 in 10,000 shares of £20 each. The capital may, with the sanction of Government, be increased by successive issues up to £800,000.

3. The constitution of the bank shall follow the rules laid down by Chapter I of Part VIII of the Code of Commerce with the exception of section 138 the bank being subject solely to the authorization of Government. || With this object the bank shall, after its establishment, enjoy in its relations with borrowers and others, the special regulations hereinafter laid down and which depart in its favour from the ordinary law.

The duration of the bank shall be 20 years.

4. The head-quarters of the bank shall be at Bucharest.

The bank shall establish, within one year from its foundation, a branch or agency in the chief town of every district. It may also elsewhere establish branches and agencies according to its needs.

Until the establishment of such branches or agencies, the bank is authorized to utilize the staff of the 'credito agricolo'¶ for carrying out, under the bank's responsibility, its business in such places. Such delegation of duties shall not in any way engage the responsibility of the State.

5. A Government Commissioner shall supervise the operations of the bank, and, above all, the issue of the notes mentioned in section 6 (6).

The salary of the Commissioner shall be fixed by Government in consultation with the authorities of the bank, and shall be paid by the latter.

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* *E.g.*, where cotton, &c., pledged to the bank has been spun into thread or woven into cloth, the thread or cloth shall be considered as the pledge.

† These and other privileges are granted, because the bank is purely a State bank.

‡ The mayor of the commune probably corresponds in status very nearly to the head of the village in Madras, as shown by this proviso which contemplates his illiteracy. But he probably lacks the importance due to the hereditary position of the Madras village officer.

§ From the Bulletin for April 1894 of the Italian Minister of Agriculture, Industry and Trade.

This appears to be the form finally assumed by the bill immediately preceding: the changes are very considerable. The practical success and even the wisdom of the experiment seem wholly doubtful.

As the Bulletin was only received in September 1895, the present law is not mentioned in Vol. I.

|| Section 138 of the Code of Commerce lays down that no company may be formed without the authorization of the local Commercial Court; *see* translation *infra* in the present appendix.

¶ The meaning of this is not known, and it seems probable that the words "credito agricolo" are a mistake for "Revenue officers": *see* section 36 of the bill. This is not the only place where the translation into Italian is doubtful.

6. The bank may engage only in the following operations:—

(1) It may lend, by preference to agriculturists, whether proprietors or tenants, upon mortgage* of agricultural produce, cattle, implements, or on pledge of receipt notes (warrants) for produce deposited in general warehouses,† on crops whether reaped or not from 1st June, on maize, whether stored or uncut from 1st September; all such produce must be insured against hail or fire. The loans must in no case exceed half the value of the mortgaged produce, &c., or the period of nine months:

(2) it may discount the bills of agriculturists of good reputation for solvency, provided that such bills shall not exceed 100 days in *échéance*. It may also discount and endorse the receipt notes (warrants) regularly issued by the managers of general warehouses against crops in deposit:

(3) it may receive deposits from agriculturists whether in cash or in goods, and may open accounts current against such deposits. It may also open similar accounts current upon the mortgage (without delivery) of goods as per sub-section 1 *supra:*

(4) it may make or receive payments on account of its agricultural clients, and may, on their behalf, purchase or sell securities or agricultural produce;

(5) it may undertake, on behalf of agriculturists, the various operations necessary on the deposit of produce in general warehouses;

(6) it may, in order to facilitate business between the agencies, branches and central office, issue notes ‡ (*buoni di cassa*) payable to order and at sight; these notes shall be receivable in payments at Government offices up to an amount equal to half of the paid-up capital of the bank. No such note shall remain in circulation beyond thirty days from date of issue; they shall be transferable by mere change of land;

(7) it may re-discount the contents of its bill case, whether its mortgage notes or agricultural bills, with the National or other bank within the limits of the credits granted by such institutions. Such re-discounts may not be effected beyond one and a half times its capital.§

(8) the bank is expressly prohibited from acquiring immovables, save those necessary for carrying on of its business, from acquiring and holding Government paper, land mortgage debentures, shares or any other class of public security.‖ Exception to this rule shall only be made in favour of the reserve fund which may be invested in paper of the Roumanian Government.

(9) the interest demanded by the bank upon its loans whether against mortgage in accordance with section 6 (6), or on the discount of agricultural bills or pledge-notes in accordance with section 6 (2), shall not exceed by more than 3 per cent. The rate of discount of the National bank. Such interest shall be fixed every month by the Board of Directors, and shall, at the same time, be published as hereinafter provided.

7. From the annual net profits shall, in the first place, be deducted, 10 per cent. for the formation of a reserve. The articles shall settle the mode of distributing the remainder. The above deduction shall cease when the reserve shall have reached the amount of 50 per cent. of the capital.

8. In addition to the publication of the annual balance sheet, the directors must publish monthly an abstract of the business done; they must also send every month a detailed statement of all classes of business to the Minister of Finance through the Government Commissioner.

9. In modification of sections 1685 and 1688 of the Civil Code the pledge (of movables) will be considered as effected, as between the bank and the borrower, upon the mere ratification of the contract, and will take effect from the date of the document indicating the number, nature, quantity and location of the goods pledged; it shall not be needful to remove the goods given in pledge from the possession of the borrower or granter of the pledge.¶

10. Within five days from the date of the contract, the deed of pledge shall, on the request of the bank, be transcribed into a special register kept by the Court of the district in which the estate (immobile) is situated. In every commune a similar register shall be maintained, in which shall be entered a brief note of the pledges registered at the Court, for which purpose the Court shall send to the mayor of the commune an extract of every registration effected thereat.

As regards third persons the rights of the bank shall not take effect until the date of such entry in the register of the commune.

11. The debtor who shall by his own acts, alienate, waste, remove, or allow to be destroyed the whole or part of the goods pledged, after the loan has been effected, shall be punished for breach of trust (*abuso difiducia*). The punishment shall be three months' imprisonment at least and six months'

* This is, contrary to the general law, a pledge without delivery, as under an English bill of sale; *see* section 9 *infra*, and following sections.

† These appear to be similar to dock warrants or certificates for goods held in bonded warehouses. The general law of pledge, requiring actual delivery of goods pledged, necessitates the provision of general warehouses or storehouses (as for silk, &c,, in Italy), where goods may be stored against advances received.

‡ These seem to be a sort of imitation of the notes of Scotch Banks, the work of which, in country places, was, in early days, when communications were less easy and secure, much facilitated by the issue and receipt of their notes in place of actual cash.

§ This is very vague: presumably it means that the total of the bills, &c., under re-discount may not, at any given moment, exceed one and a half times the capital.

‖ It is evident that the legislature had in view the example of the French Society called "*Le Crédit Agricole*," which started with objects similar to those contemplated by the present law but which lamentably failed owing partly to its dabling in speculative investments in shares and securities. Such investments were, however, only the proximate cause of its failure as a society of agricultural credit. (*See* Vol. I., pp. 125, 126.)

¶ This is the "*gage sans dessaisissement*," the adoption of which, in Europe, has long been advocated as a necessity for agricultural credit: the ordinary civil law does not admit of pledge without delivery. The Italian and Belgian laws were the first to adopt this innovation: *cf.* the English Bill of Sale.

The contract takes effect from the date of the document, not from the date of registration: but *see* section 10, para. 2 for the effect of registration.

at most, and, in modification of section 60 of the Penal Code, the Court shall not admit extenuating circumstances in regard to this special offence.*

12. Saving the preferential right (privilegio) of the landlord for the rent of the year in which the loan shall be effected and of that which follows, beginning with the agricultural half-year (23rd April to 26th October), and saving also all such other prior rights as contemplated by sections 1729 and 1730 (2), (3), (4), (5), (7) and (8) of the Civil Code, the loans of the bank contracted in accordance with section 6 (1), of the present law are specially privileged, (have special preferential rights) over the goods pledged.

The bank has the same preferential rights over sums owed to the debtor by Insurance Societies in case of damage to the goods pledged. The bank shall not lend against pledges to the proprietors and tenants of farms mortgaged to the rural land bank until the expiration of the period of such mortgages.

13. Every loan granted by the bank in conformity with section 6 (2) and following sub-sections, shall be considered a commercial transaction.†

All parties to such transactions shall fall within the jurisdiction of the Commercial Courts, but Book III of the Commercial Code shall not apply. ‡ In its relations with other banking institutions the bank shall be wholly subject to all the provisions of the Code of Commerce.

14. Proceedings against debtors in the case of loans under section 6 (1) of the present law shall be carried out according to the rules next following: proceedings for the recovery of any other debts shall be made in conformity with the Code of Commerce.

15. If a debt § shall not have been paid up on due date, the bank shall present an application to the President of the Court of the district in which is situated the property where the goods pledged are located.

The President of the Court shall, within three days at latest, despatch a notice to the debtor that unless within eight days from receipt of the notice he settles his debt, the pledged goods will be sold.

This notice shall be served on the debtor by the Court bailiff, and, in case of the debtor's absence or in case he refuses service, it shall be left at his house and in the communal office.

When the debtor is a tenant, the notice shall in the same manner, be brought to the notice of his landlord; without such formality the proceedings shall not be binding against him (*i.e.*, apparently against the landlord).

16. If, on the expiry of the date entered in the notice, the debt is not settled, the Court shall make an order for the sale of the goods by the Court bailiff.

The bailiff shall make an inventory of the pledged goods and shall draw up a memorandum of the proceedings with the aid of a communal councillor and two witnesses belonging to the commune.

This memorandum shall be signed by the bailiff, by the persons who have assisted him and by the person against whom the proceedings are made: should any of them refuse or be unable to sign, a note shall be made to that effect in the memorandum.

17. A copy of the inventory and of the memorandum shall be delivered to the person against whom the proceedings are made and a receipt for the same shall be taken from him: in case of his absence or refusal to receive the same, the copies shall be left at the communal office.

A second copy shall be deposited in Court from the date of the memorandum no other proceedings or attachment shall have antagonistic effect against the goods in question, even though on account of other privileged dues owed to the bank.‖

18. The sale of the pledged goods shall take place at the end of 15 days from the date of the memorandum by order from the Court.

The Court shall, before making such order, ascertain whether any other attachments or proceedings are in existence against the said goods. Where such proceedings exist and related to dues (crediti) privileged under section 12 of the present law, the Court will order the sale of the goods to such amount as will cover these dues also.

19. After the order has been drawn up a notice of the sale shall immediately be published throughout the taluk (circondario) where the auction is to take place, mentioning the place (date) and hour of sale, and the goods to be sold.

20. At the date fixed for the sale the Court bailiff shall repair to the place where the goods in question are located, in company with a communal councillor and a police officer, or in default of such persons, with two witnesses, and shall proceed to the sale of the goods, lot by lot, until the realization of a sum sufficient to cover the dues. The remainder (if any) of the goods shall be delivered to the owner or to his representative, provided that no other attachment exists against goods: the owner or his representative shall give his receipt for such goods by entering his signature on the sale memorandum. Should any of the goods to be sold be subject to any other attachment besides, that on which the Court has ordered their sale, the bailiff shall invite the persons charged with such other attachment to be present at the auction; any goods not sold shall be delivered to such persons who shall give receipt for the same.

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* This is one of the provisions which indicates the difficulties of a central State-organized bank, and the doubts felt by the framers of the law as to its success without drastic legal provisions. The nature of the *minimum* punishment is noteworthy.

† In continental Europe the word 'commercial' has a rather technical meaning; all Acts of commerce are governed by the Commercial rather than by the Civil Code, and are subject to the jurisdiction either of the regular Commercial Courts or of the Commercial side of the ordinary Civil Courts. *See* elsewhere in this Appendix.

‡ The Roumanian Code is similar to that of Italy, in which Book III treats of the dissolution and liquidation of companies.

§ *I.e.*, under 6 (1); *See* section 14.

‖ The meaning is not quite clear; apparently when the goods have once been thus attached no subsequent attachment is valid as against such prior attachment, but must take a lower rank. But section 12 expressly reserves the *prior* right of a landlord. Perhaps the landlord only has a prior right until the date of the memorandum of attachment; in other words the bank's claim is preceded by the landlord's claim until actual attachment when the bank's claim takes precedence. This is contrary to the rights of a landlord under the Bills of Sale Act (England) by which the right of a landlord is saved even though the goods are actually under attachment.

In case the owner or his representative or the persons charged with any other attachment, refuse or are unable to receive the surplus goods, the said surplus goods shall be delivered to the mayor where the commune is rural, and to the police where it is urban, together with a memorandum showing their nature and quantity, which shall also be entered in the sale memorandum.

21. The sale shall be by public auction and the goods shall be knocked down to the highest bidder.

No one shall be permitted to bid unless he shall have deposited with the bailiff a sum equal to 10 per cent. of the amount due.

22. The bailiff shall sign on the spot the auction notes, enter thereon the amount obtained by the sale, retain the amount due to the bank and as costs, and give the debtor an acknowledgment showing the sum collected. If there are no other attachments or executions on the property, any surplus receipts shall be paid over to the owner in cash on the spot.

23. The debtor or his representatives shall sign the auction note reciting the conclusion of the affair and its results.

Should the debtor refuse to be present at the sale or to accept a receipt and any surplus as mentioned in section 22, the bailiff in the presence of two witnesses taken from the bystanders shall note such refusal at the end of the auction note, and shall deposit the receipt in the communal office; the surplus cash shall be remitted through the district treasury to the office for deposits to await any claim. The deposit receipt shall be kept by the court which ordered the auction.

24. Where the court has ordered the sale including therein any dues on any privileged claims other than those of the bank, as per section 12 and when the sum obtained by such sale shall not cover the whole of the dues for which the sale was ordered, the court shall proceed to distribute such sum and shall determine the order of priority of the claims in the manner provided by section 26 *infra.*

25. The auction note shall be made out in triplicate, one copy of which shall be deposited in the communal records, the second in the court, and the third shall be sent by the President of the court to the bank together with the amount obtained by the sale towards the cancelment of the debt.

26. Objections raised to proceedings taken against goods under the present law shall be made to the district court within eight days from the date of publication of the notice issued under section 19 *supra.* Objections by the debtor or pledgor shall not be admitted unless accompanied by a receipt intimating the deposit of the amount for which proceedings had been issued.

In both cases the court shall treat the matter as urgent.

Proceedings before the court under this section shall be exempt from stamp duties as regards the State.*

The orders of the court shall be subject to appeal within 15 days from date of the order, on the ground that it has exceeded its powers, that it has no jurisdiction, or that it has acted illegally.

27. A public set of rules compiled by the Minister of Finance in concert with the Minister of Justice shall prescribe all details necessary to execute the present law.

28. As soon as the law has been published Government shall open a public subscription for the capital of £200,000 mentioned in section 2.

The bank shall not be established or commence business until full subscription of 10,000 shares.

29. As soon as the subscription has closed, the Minister of Finance shall call together the shareholders with the object of establishing the bank and of fulfilling the requirements of the Code of Commerce as per section 3 *supra.*

BILLS OF SALE ACT, ENGLAND 1878.†

(41 & 42 Vict., Chap. 31.)

An Act to consolidate and amend the Law for preventing frauds upon creditors by secret Bills of Sale of Personal Chattels.

[22nd July 1878.]

1. *Short title.*—This Act may be cited for all purposes as the Bills of Sale Act, 1878.

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* Verso lo stato; the meaning is not quite clear; apparently it means that stamp duties as on plaints are not leviable, but that other costs are.

† *See* Vol. I, pp. 317–18.

These Acts are here entered because of the similarity of some of the provisions to those of the special laws for agricultural credit in Italy and Belgium. Moreover the bill of sale is much used in small credit in Great Britain and Ireland; in the latter island it is greatly used, and—it is said—abused, in the supply of credit, frequently usurious, to small farmers. These particular Acts do not however apply to Scotland and Ireland.

The Act of 1878 seems to have been drawn chiefly in the interest of creditors; to prevent fraud on the part of borrowers, and to enable lenders to ascertain the real nature of the security offered. That of 1882 protects debtors also, especially sections 4, 7, 8 and 9.

The bills of sale known as "conditional," viz., mortgages of movables granted to secure the payment of money, where the property remains in possession of the grantor of the bill (*i.e.*, the borrower), are those of most interest for the purposes of this study; "absolute" bills, that is, out and out sales, are of no present interest.

A bill of sale is a document by which the property in personal chattels is transferred without transfer of possession; usually the operation is intended to provide security for the repayment of money lent by the grantee of the bill of sale to the grantor; should the grantor fail to meet his obligations to the grantee, the latter has the right of instant seizure of the chattels in question, as entered in the schedule to the bill of sale (*see* section 3 of the principal Act (1878), and section 7 of the Amendment Act, 1882, with the note thereon). But a bill of sale does not protect the goods against the right of a landlord to distrain them for his rent, or of the authorities for rates and taxes: these are prior or preferential rights (privileges) which cannot be defeated by contract claims.

The definition of the expression "personal chattels" in section 4 is important.

The works principally consulted are those of Messrs. D. R. Macalpin, T. W. Haycraft and Herbert Reed.

3. *Application of Act.*—This Act shall apply to every bill of sale executed on or after the first day of January one thousand eight hundred and seventy-nine (whether the same be absolute, or subject or not subject to any trust) whereby the holder or grantee has power, either with or without notice, and either immediately or at any future time, to seize or take possession of any personal chattels comprised in or made subject to such bill of sale.

4. *Interpretation of terms.*—In this Act the following words and expressions shall have the meanings in this section assigned to them respectively, unless there be something in the subject or context repugnant to such construction; (that is to say),

The expression "bill of sale" shall include bills of sale, assignments, transfers, declarations of trust without transfer, inventories of goods with receipt thereto attached, or receipts for purchase moneys of goods, and other assurances of personal chattels, and also powers of attorney, authorities, or licenses to take possession of personal chattels as security for any debt, and also any agreement, whether intended or not, to be followed by the execution of any other instrument, by which a right in equity to any personal chattels, or to any charge or security thereon, shall be conferred, but shall not include the following documents; that is to say, assignments for the benefit of the creditors of the person making or giving the same, marriage settlements, transfers or assignments of any ship or vessel or any share thereof, transfers of goods in the ordinary course of business of any trade or calling, bills of sale of goods in foreign parts, or at sea, bills of lading, India warrants, warehouse-keeper's certificates, warrants or orders for the delivery of goods, or any other documents used in the ordinary course of business, as proof of the possession or control of goods, or authorising or purporting to authorise, either by endorsement or by delivery, the possessor of such document to transfer or receive goods thereby represented:

The expression "personal chattels" shall mean goods, furniture, and other articles capable of complete transfer by delivery, and (when separately assigned or charged) fixtures and growing crops, but shall not include chattel interests in real estate, nor fixtures (except trade machinery as hereinafter defined), when assigned together with a freehold or leasehold interest in any land or building to which they are affixed, nor growing crops when assigned together with any interest in the land on which they grow, nor shares or interests in the stock, funds, or securities of any government, or in the capital or property of incorporated or joint stock companies, nor chooses in action, nor any stock or produce upon any farm or lands, which by virtue of any covenant or agreement, or of the custom of the country ought not to be removed from any farm where the same are at the time of making or giving of such bill of sale:

Personal chattels shall be deemed to be in the "apparent possession" of the person making or giving a bill of sale, so long as they remain or are in or upon any house, mill, warehouse, building, works, yard, land, or other premises occupied by him, or are used and enjoyed by him in any place whatsoever, notwithstanding that formal possession thereof may have been taken by, or given, to any other person:

"Prescribed" means prescribed by rules made under the provisions of this Act.

5. *Application of Act to trade machinery.*—From and after the commencement of this Act trade machinery shall, for the purposes of this Act, be deemed to be personal chattels, and any mode of disposition of trade machinery by the owner thereof which would be a bill of sale as to any other personal chattels, shall be deemed to be a bill of sale within the meaning of this Act.

For the purposes of this Act—

"Trade machinery" means the machinery used in, or attached to, any factory or workshop;

1st.—Exclusive of the fixed motive-powers, such as the water-wheels, and steam engines, and the steam boilers, donkey engines, and other fixed appurtenances of the said motive-powers; and,

2nd.—Exclusive of the fixed power machinery, such as the shafts, wheels, drums, and their fixed appurtenances which transmit the action of the motive-powers to the other machinery, fixed and loose; and,

3rd.—Exclusive of the pipes for steam, gas, and water in the factory or workshop.

The machinery or effects excluded by this section from the definition of trade machinery shall not be deemed to be personal chattels within the meaning of this Act.

"Factory or workshop" means any premises on which any manual labour is exercised by way of trade, or for purposes of gain, in or incidental to the following purposes or any of them; that is to say,

(*a*) In or incidental to the making any article or part of an article; or
(*b*) In or incidental to the altering, repairing, ornamenting, finishing, of any article; or
(*c*) In or incidental to the adapting for sale any article.

6. *Certain instruments giving powers of distress to be subject to this Act.*—Every attornment, instrument, or agreement, not being a mining lease, whereby a power of distress is given or agreed to be given, by any person to any other person by way of security for any present, future, or contingent debt or advance, and whereby any rent is reserved or made payable as a mode of providing for the payment of interest on such debt or advance, or otherwise for the purpose of such security only, shall be deemed to be a bill of sale, within the meaning of this Act, of any personal chattels which may be seized or taken under such power of distress.

Provided, that nothing in this section shall extend to any mortgage of any estate or interest in any land, tenement, or hereditament, which the mortgagee, being in possession, shall have demised to the mortgagor as his tenant at a fair and reasonable rent.

7. *Fixtures or growing crops not to be deemed separately assigned when the land passes by the same instrument.*—No fixtures or growing crops shall be deemed, under this Act, to be separately assigned or charged by reason only that they are assigned by separate words, or that power is given to sever them

from the land or building to which they are affixed, or from the land on which they grow, without otherwise taking possession of or dealing with such land or building, or land, if by the same instrument any freehold or leasehold interest in the land or building to which such fixtures are affixed, or in the land on which such crops grow, is also conveyed or assigned to the same persons or person.

The same rule of construction shall be applied to all deeds or instruments, including fixtures or growing crops, executed before the commencement of this Act and then subsisting and in force, in all questions arising under any bankruptcy, liquidation, assignment for the benefit of creditors, or execution of any process of any court, which shall take place or be issued after the commencement of this Act.

8. (Repealed by section 15 of the Act of 1882.)

9. *Avoidance of certain duplicate bills of sale.*—Where a subsequent bill of sale is executed within, or on the expiration of, seven days after the execution of a prior unregistered bill of sale, and comprises all or any part of the personal chattels comprised in such prior bill of sale, then, if such subsequent bill of sale is given as a security for the same debt as is secured by the prior bill of sale, or for any part of such debt, it shall, to the extent to which it is a security for the same debt or part thereof, and so far as respects the personal chattels or part thereof comprised in the prior bill, be absolutely void, unless it is proved to the satisfaction of the court having cognisance of the case that the subsequent bill of sale was *bonâ fide* given for the purpose of correcting some material error in the prior bill of sale, and not for the purpose of evading this Act.

10. *Mode of registering bills of sale.*—A bill of sale shall be attested and registered under this Act in the following manner :—

(1) The execution of every bill of sale shall be attested by a Solicitor of the Supreme Court, and the attestation shall state that before the execution of the bill of sale the affect thereof has been explained to the grantor by the attesting Solicitor.*

(2) Such bill, with every schedule or inventory thereto annexed or therein referred to, and also a true copy of such bill and of every such schedule or inventory, and of every attestation of the execution of such bill of sale, together with an affidavit of the time of such bill of sale being made or given, and of its due execution and attestation, and a description of the residence and occupation of the person making or giving the same (or in case the same is made or given by any person under or in the execution of any process, then a description of the residence and occupation of the person against whom such process issued), and of every attesting witness to such bill of sale, shall be presented to and the said copy and affidavit shall be filed with the registrar within seven clear days after the making or giving of such bill of sale, in like manner as a warrant of attorney in any personal action given by a trader is now by law required to be filed.

(3) If the bill of sale is made or given subject to any defeasance or condition, or declaration of trust not contained in the body thereof, such defeasance, condition, or declaration shall be deemed to be part of the bill, and shall be written on the same paper or parchment therewith before the registration, and shall be truly set forth in the copy filed under this Act therewith, and as part thereof, otherwise the registration shall be void.

In case two or more bills of sale are given, comprising in whole or in part any of the same chattel, they shall have priority in the order of the date of their registration, respectively as regards such chattels.

A transfer or assignment of a registered bill of sale need not be registered.

11. *Renewal of registration.*—The registration of a bill of sale, whether executed before or after the commencement of this Act, must be renewed once at least every five years, and if a period of five years elapses from the registration or renewed registration of a bill of sale without a renewal or further renewal (as the case may be), the registration shall become void.

The renewal of a registration shall be effected by filing with the registrar an affidavit stating the date of the bill of sale and of the last registration thereof, and the names, residences, and occupations of the parties thereto as stated therein, and that the bill of sale is still a subsisting security.

Every such affidavit may be in the form set forth in the Schedule (A) to this Act annexed.

A renewal of registration shall not become necessary by reason only of a transfer or assignment of a bill of sale.

12. *Form of register.*—The registrar shall keep a book (in this Act called "the register") for the purposes of this Act, and shall, upon the filing of any bill of sale or copy under this Act, enter therein in the form set forth in the second Schedule (B) to this Act, annexed, or in any other prescribed form, the name, residence, and occupation of the person by whom the bill was made or given (or in case the same was made or given by any person under or in the execution of process, then the name, residence and occupation of the person against whom such process was issued, and also the name of the person or persons to whom or in whose favour the bill was given), and the other particulars shown in the said schedule or to be prescribed under this Act, and shall number all such bills registered in each year consecutively, according to the respective dates of their registration.

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* Sub-section 1 has been repealed by section 10 of the Amendment Act (1882), but Mr. Herbert Reed, in his commentary, considers the repeal to be limited, by section 3 of the Amendment Act, to bills of sale under the same (Amendment) Act. This, however, includes all bills of sale given to secure the payment of money, that is, all such as are of interest in this study. Such bills are to be attested as provided for in section 10 of the Amendment Act.

It will be noticed that in sub-section 2 and the following sections, the immediate registration of bills of sale is compulsory. This is a much needed provision not found in the Indian Registration Act, by which the registration of such documents is optional [section 18 (d)]. Under the English Act registration is not "transcription," but "inscription," viz., the entry of a mere memorandum in a register, but the person making the registration must, with the bill of sale, present also a copy thereof which is filed in the Registrar's office. The plan might be suitable for a good deal of the registration effected in India, especially of the less important documents.

Upon the registration of any affidavit of renewal the like entry shall be made, with the addition of the date and number of the last previous entry relating to the same bill, and the bill of sale or copy originally filed shall be thereupon marked with the number affixed to such affidavit of renewal.

The registrar shall also keep an index of the names of the grantors of registered bills of sale with reference to entries in the register of the bills of sale given by each such grantor.

Such index shall be arranged in divisions corresponding with the letters of the alphabet, so that all grantors whose surnames begin with the same letter (and no others) shall be comprised in one division, but the arrangement within each such division need not be strictly alphabetical.

13. *The registrar.*—The masters of the Supreme Court of Judicature attached to the Queen's Bench Division of the High Court of Justice, or such other officers as may for the time being be assigned for this purpose under the provisions of the Supreme Court of Judicature Acts, 1873 and 1875, shall be the registrar for the purposes of this Act, and any one of the said masters may perform all or any of the duties of the registrar.

14. *Rectification of register.*—Any Judge of the High Court of Justice on being satisfied that the omission to register a bill of sale, or an affidavit of renewal thereof within the time prescribed by this Act, or the omission or mis-statement of the name, residence, or occupation of any person, was accidental or due to inadvertence, may in his discretion order such omission or mis-statement to be rectified by the insertion in the register of the true name, residence, or occupation, or by extending the time for such registration on such terms and conditions (if any) as to security, notice by advertisement or otherwise, or as to any other matter, as he thinks fit to direct.

15. *Entry of satisfaction.*—Subject to and in accordance with any rules to be made under, and for the purposes of this Act, the registrar may order a memorandum of satisfaction to be written upon any registered copy of a bill of sale, upon the prescribed evidence being given that the debt (if any) for which such bill of sale was made or given has been satisfied or discharged.

16. *Copies may be taken, &c.*—Any person shall be entitled to have an office copy or extract of any registered bill of sale, and affidavit of execution filed therewith, or copy thereof, and of any affidavit filed therewith, if any, or registered affidavit of renewal, upon paying for the same at the like rate as for office copies of judgments of the High Court of Justice, and any copy of a registered bill of sale, and affidavit purporting to be an office copy thereof, shall in all courts and before all arbitrators or other persons, be admitted as *primâ facie* evidence thereof, and of the fact and date of registration as shown thereon.

17. *Affidavits.*—Every affidavit required by, or for the purposes of this Act, may be sworn before a master of any division of the High Court of Justice, or before any Commissioner empowered to take affidavits in the Supreme Court of Judicature.

Whoever wilfully makes or uses any false affidavit for the purposes of this Act shall be deemed guilty of wilful and corrupt perjury.

18. *Fees.**—There shall be paid and received in common law stamps the following fees, viz.:—

On filing a bill of sale .. .. 2*s.*
On filing the affidavit of execution of a bill of sale .. .. 2*s.*
On the affidavit used for the purpose of registering a bill of sale (to include the fee for filing) .. .. 5*s.*

19. *Collection of fees under* 38 *and* 39 *Vict.*, *c.* 77, *s.* 26.—Section 26 of the Supreme Court of Judicature Act, 1875, and any enactments for the time being in force amending or substituted for that section, shall apply to fees under this Act, and an order under that section may, if need be, be made in relation to such fees accordingly.

20. (Repealed by s. 15 of the Act of 1882.)

21. *Rules.*—Rules for the purposes of this Act may be made and altered from time to time by the like persons and in the like manner in which rules and regulations may be made under and for the purposes of the Supreme Court of Judicature Acts, 1873 and 1875.

22. *Time for registration.*—When the time for registering a bill of sale expires on a Sunday, or other day on which the registrar's office is closed, the registration shall be valid if made on the next following day on which the office is open.

23. *Repeal of Acts.*—

24. *Extent of Act.*—This Act shall not extend to Scotland or to Ireland.

BILLS OF SALE ACT (1878), AMENDMENT ACT, 1882.

(45 & 46 Vict., Chap. 43.)

An Act to amend the Bills of Sale Act, 1878. [18th August 1882.]

1. *Short title.*—This Act may be cited for all purposes as the Bills of Sale Act (1878) Amendment Act, 1882; and this Act and the Bills of Sale Act, 1878, may be cited together as the Bills of Sale Acts, 1878 and 1882.

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* These fees are irrespective of the stamp duty on the bill of sale itself. This, on conditional bills, *i.e.*, bills granted to secure the payment of money, is 1*s.* 3*d.* on a bill of from £25 to £50, 2*s.* 6*d.* on bills from £50 to £100, and so on up to £300. Transfers of bills are chargeable with a stamp duty of 6*d.* for every £100 or part of £100.

The fee payable on the registration of bills of sale, which is compulsory, is 5*s.* for £100 or part thereof up to £200, and £1 for bills above that sum. There are also heavy fees for filing other documents, affidavits, &c. These are leviable as Supreme Court Fees (*see* section 19 of the present Act), by means of "Judicature stamps."

3. *Construction of Act.*—The Bills of Sale Act, 1878, is hereinafter referred to as "the principal Act," and this Act shall, so far as is consistent with the tenor thereof, be construed as one with the principal Act; but unless the context otherwise requires, shall not apply to any bill of sale duly registered before the commencement of this Act, so long as the registration thereof is not avoided by non-renewal or otherwise.

The expression "bill of sale," and other expressions in this Act, have the same meaning as in the principal Act, except as to bills of sale or other documents mentioned in section 4 of the principal Act, which may be given otherwise than by way of security for the payment of money, to which last-mentioned bills of sale and other documents this Act shall not apply.

4. *Bill of sale to have schedule of property attached thereto.*—Every bill of sale shall have annexed thereto or written thereon, a schedule containing an inventory of the personal chattels comprised in the bill of sale; and such bill of sale, save as hereinafter mentioned, shall have effect only in respect of the personal chattels specifically described in the said schedule; and shall be void, except as against the grantor, in respect of any personal chattels not so specifically described.*

5. *Bill of sale not to affect after-acquired property.*—Save as hereinafter mentioned, a bill of sale shall be void, except as against the grantor, in respect of any personal chattels specifically described in the schedule thereto of which the grantor was not the true owner at the time of the execution of the bill of sale.

6. *Exception as to certain things.*—Nothing contained in the foregoing sections of this Act shall render a bill of sale void in respect of any of the following things; (that is to say),

(1) Any growing crops separately assigned or charged where such crops were actually growing at the time when the bill of sale was executed.

(2) Any fixtures separately assigned or charged, and any plant, or trade machinery where such fixtures, plant, or trade machinery are used in, attached to, or brought upon any land, farm, factory, workshop, shop, house, warehouse, or other place in substitution for any of the like fixtures, plant, or trade machinery specifically described in the schedule to such bill of sale.

7. *Bill of sale with power to seize except in certain events to be void.*—Personal chattels assigned under a bill of sale shall not be liable to be seized or taken possession of by the grantee for any other than the following causes:—†

(1) If the grantor shall make default in payment of the sum or sums of money thereby secured at the time therein provided for payment, or in the performance of any covenant or agreement contained in the bill of sale and necessary for maintaining the security;

(2) If the grantor shall become a bankrupt, or suffer the said goods or any of them to be distrained for rent, rates, or taxes;

(3) If the grantor shall fraudulently either remove or suffer the said goods, or any of them, to be removed from the premises;

(4) If the grantor shall not, without reasonable excuse upon demand in writing by the grantee, produce to him his last receipts for rent, rates, and taxes;

(5) If execution shall have been levied against the goods of the grantor under any judgment at law.

Provided that the grantor may within five days from the seizure or taking possession of any chattels on account of any of the above-mentioned causes, apply to the High Court, or to a Judge thereof in chambers, and such court or Judge, if satisfied that by payment of money or otherwise the said cause of seizure no longer exists, may restrain the grantee from removing or selling the said chattels, or may make such other order as may seem just.

8. *Bill of sale to be void unless attested and registered.*—Every bill of sale shall be duly attested, and shall be registered under the principal Act within seven clear days after the execution thereof, or if it is executed in any place out of England then within seven clear days after the time at which it would in the ordinary course of post arrive in England, if posted immediately after the execution thereof; and shall truly set forth the consideration for which it was given; otherwise such bill of sale shall be void in respect of the personal chattels comprised therein.

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* This section is very important. The goods under mortgage must be specifically described in a schedule "with such particularity as is usual in an ordinary business inventory of such chattels in such a place as they are," but it is not necessary to go "into minutiæ." Farm stock is somewhat variable, and probably, under the decisions, it is only necessary to mention the nature and number of the articles or animals.

Presumably, under section 5, the lender on the bill of sale would have no claim on after-acquired property, such as an increase, by reproduction, &c., of a given number of cows, sheep, &c., or on crops sown subsequently to the date of the bill.

† It will be remembered that under a bill of sale the grantee (lender) has the right of seizure of the scheduled property (section 3 of the Act of 1878). Section 7 of the Amendment Act limits the power of seizure to the occurrence of one or other of five causes, with power of appeal by the grantor to the courts.

The bill of sale, as such, with its inherent power of summary seizure, is not in force in India; movables, crops, &c., are mortgaged without delivery of possession, but the mortgagee has no power summarily and without court process, to enter and seize the goods on breach of covenant by the mortgagor. Perhaps, under the conditions of credit in India it might, at first, be advisable to restrict the power of summary seizure by the mortgagee without court process; *e.g.*, by allowing the power only in the case of bills of sale granted to recognized or specially empowered credit associations and to companies, to individuals only in specified areas such as towns and for sums of Rs. 50 and upwards.

The grantor may be required duly to maintain the security; *e.g.*, the bill of sale may require him to insure the goods, to prevent them from destruction or injury otherwise than by reasonable wear and tear, and to replace or repair damaged stock, &c.; failure to maintain the agreement will warrant seizure. So also, by sub-section (4), seizure is warranted if the grantee fails to produce his receipts for rent, rates and taxes, since the goods would be liable to be distrained by the landlord or by the authorities on their respective rights of priority, if the grantee failed in his payments for rent, taxes, &c. (*see* note on section 9 *infra*).

9. *Form of bill of sale.*—A bill of sale made or given by way of security for the payment of money by the grantor thereof shall be void unless made in accordance with the form in the schedule to this Act annexed. *

10. *Attestation.*—The execution of every bill of sale by the grantor shall be attested by one or more credible witness or witnesses, not being a party or parties thereto. So much of section 10 of the principal Act as requires that the execution of every bill of sale shall be attested by a Solicitor of the Supreme Court, and that the attestation shall state that before the execution of the bill of sale the effect thereof has been explained to the grantor by the attesting witness, is hereby repealed. †

11. *Local registration of contents of bills of sale.*—Where the affidavit (which under section 10 of the principal Act is required to accompany a bill of sale when presented for registration) describes the residence of the person making or giving the same or of the person against whom the process is issued to be in some place outside the London bankruptcy district as defined by the Bankruptcy Act, 1869, or where the bill of sale describes the chattels enumerated therein as being in some place outside the said London bankruptcy district, the registrar under the principal Act shall forthwith and within three clear days after registration in the principal registry, and in accordance with the prescribed directions, transmit an abstract in the prescribed form of the contents of such bill of sale to the county court registrar in whose district such place are situate, and if such places are in the districts of different registrars to each such registrar, page 56.

Every abstract so transmitted shall be filed, kept, and indexed by the registrar of the county court in the prescribed manner, and any person may search, inspect, make extracts from, and obtain copies of the abstract so registered in the like manner and upon the like terms as to payment or otherwise as near as may be as in the case of bills of sale registered by the registrar under the principal Act.

12. *Bill of sale under* £30 *to be void.*—Every bill of sale made or given in consideration of any sum under thirty pounds shall be void. ‡

13. *Chattels not to be removed or sold.*—All personal chattels seized or of which possession is taken after the commencement of this Act, under or by virtue of any bill of sale (whether registered before or after the commencement of this Act), shall remain on the premises where they were so seized or so taken possession of, and shall not be removed or sold until after the expiration of five clear days from the day they were so seized or so taken possession of. §

14. *Bill of sale not to protect chattels against poor and parochial rates.*—A bill of sale to which this Act applies shall be no protection in respect of personal chattels included in such bill of sale which but for such bill of sale would have been liable to distress, under a warrant for the recovery of taxes and poor and other parochial rates.

15. *Repeal of part of Bills of Sale Act,* 1878.—The eighth and the twentieth sections of the principal Act, and also all other enactments contained in the principal Act, which are inconsistent with this Act are repealed, but this repeal shall not affect the validity of anything done or suffered under the principal Act before the commencement of this Act.

16. *Inspection of registered bills of sale.*—So much of the sixteenth section of the principal Act, as enacts that any person shall be entitled at all reasonable times to search the register, and every registered bill of sale upon payment of one shilling for every copy of a bill of sale inspected is hereby repealed, and from and after the commencement of this Act, any person shall be entitled at all reasonable times to search the register, on payment of a fee of one shilling, or such other fee as may be prescribed, and subject to such regulations as may be prescribed, and shall be entitled at all reasonable times to inspect, examine, and make extracts from any and every registered bill of sale, without being required to make a written application, or to specify any particulars in reference thereto, upon payment of one shilling for each bill of sale inspected, and such payment shall be made by a judicature stamp. Provided that the said extracts shall be limited to the dates of execution, registration, renewal of registration, and satisfaction, to the names, addresses, and occupations of the parties, to the amount of the consideration, and to any further prescribed particulars.

17. *Debentures to which Act not to apply.*—Nothing in this Act shall apply to any debentures issued by any mortgage, loan, or other incorporated company, and secured upon the capital stock or goods, chattels, and effects of such company.

18. *Extent of Act.*—This Act shall not extend to Scotland or Ireland.

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* The decisions show that only substantial conformity with the schedule form is necessary : it may be in any form provided that the legal consequences or effects will be neither greater nor less than if drawn in the exact statutory form : "nothing substantial must be subtracted from it, and nothing actually inconsistent must be added to it." Accordingly bills of sale are usually much fuller in form than that given in the schedule and contain in detail the several covenants by which the grantor (borrower) is to be specifically bound. *E.g.*, in a specimen extended form of a conditional bill of sale granted on account of money lent to the grantor, besides the general covenant for repayment, there are special covenants (1) for insurance of the goods; (2) for due payment of rent, rates, and taxes on the premises containing the goods; (3) for the production on demand of the latest receipts for rent, rates and taxes, and of the insurance policy and latest receipt; (4) for the repayment with interest to the grantee of any sums paid by him on account of (1) and (2); (5) for the non-removal of the goods without the grantee's consent (this does not bar temporary removal for use in the ordinary course of business, as by driving a horse beyond the farm limits, &c.) ; (6) for the prevention of undue deterioration, &c., and for the replacement and repair of the goods and their maintenance in their present value; (7) for allowing the grantee or his agents to enter and remove the goods in case of breach of covenant, and to sell the same.

† This section is apparently intended to lessen the cost and extend the use of bills of sale by the repeal of the formality required by the principal Act.

‡ The reason for this limitation is not known : Mr. Reed states that the limit originally proposed was £50, and that £30 is the result of a compromise. In this Presidency it does not seem necessary to make a limit.

§ Distrained property in England is generally left on the premises; *see* Vol. I, pp. 315–16, and section 61 of the Draft Bill in the same volume.

Form of Bill of Sale.

This Indenture made the day of between *A.B.* of of the one part, and *C.D.* of of the other part, witnesseth that in consideration of the sum of £ now paid to *A.B.* by *C.D.*, the receipt of which the said *A.B.* hereby acknowledges [*or whatever else the consideration may be*], he the said *A.B.* doth hereby assign unto *C.D.*, his executors, administrators, and assigns, all and singular the several chattels and things specifically described in the schedule hereto annexed by way of security for the payment of the sum of £ , and interest thereon at the rate of per cent. per annum [*or whatever else may be the rate*]. And the said *A.B.* doth further agree and declare that he will duly pay to the said *C.D.* the principal sum aforesaid, together with the interest then due, by equal payments of £ on the day of [*or whatever else may be the stipulated times or time of payment*]. And the said *A.B.* doth also agree with the said *C.D.* that he will [*here insert terms as to insurance, payment of rent, or otherwise, which the parties may agree to for the maintenance or defeasance of the security*].

Provided always, that the chattels hereby assigned shall not be liable to seizure or to be taken possession of by the said *C.D.* for any cause other than those specified in section 7 of the Bills of Sale Act (1878), Amendment Act, 1882.

In witness, &c.

Signed and sealed by the said *A.B.* in the presence of me *E.F.* [*add witness' name, address, and description*].

AGRICULTURAL BANKS, MYSORE.*

Extract from the Dewan's Dasara Speech of 1894.

Gentlemen,—Before concluding this address, I wish to make a few observations regarding the establishment of agricultural banks in this country, which on more than one previous occasion you pressed upon the attention of the Government. The subject has now received that careful study and investigation which its vital importance demands and I am able to place in your hands to-day the Kanarese draft of a scheme whereunder banks for the special benefit of agriculturists can most readily be established in this country. The details of the scheme are set forth in full in the draft before you, but I may in this place add a few remarks in explanation of its more salient features.

On the one hand we have large accumulations of unused capital in the country as evidenced by the balances in the Presidency and other exchange banks, the refusal of the former to receive any private deposits except as current ones carrying no interest and the high premium which the Government of India 3½ per cent. securities command. On the other hand, we have the agriculturist suffering from inability to raise the funds required for his *bonâ fide* purposes except at ruinous rates of interest. In our own State the balance of the Government Savings Banks' deposits has risen from 4 lakhs in 1881 to 28 lakhs during the last year, though the rate of interest was recently reduced to 3¾ per cent., but the borrowing power of our raiyat is nevertheless as low as ever. The substantial agriculturist, especially the coffee planter and the grower of exportable produce, is able to obtain some credit from the foreign buyer on the security of his crops at 9 and 12 per cent. interest, but the ordinary raiyat is unable to get any credit except at usurious rates. How to bridge over the wide gulf that thus separates capital from want is one of the most important problems of the day in this country, and it is not without considerable diffidence that His Highness' Government approach its solution; but we derive the hope of eventual success from what has already been accomplished in some European countries, where conditions very similar to ours have existed. These countries have tried various experiments for the re-organization of land credit by interposing an intermediate body, such as the Land Credit banks of the Continent, between the capitalist and the agricultural borrower. These experiments have been attended with varying degrees of success according to the degree of identification attained, of the interests of the intermediate body with those of the borrower, but the most successful system has been proved to be that in which the agriculturists, forming themselves into an association on strictly co-operative principles, substituted their own united credit for that of the intermediate body, thus securing for themselves the fullest return for their own credit as agriculturists and doing away with the profits of the middlemen.

The existing conditions among us offer no insuperable obstacle in the way of the establishment and successful working of similar associations in this country under the designation of agricultural banks. Indeed, speaking of our own Province, the tracts in which the *Suttigé* and crop advance systems exist, afford highly favourable conditions for their establishment. The essential principles underlying their constitution are—

(i) Every bank to be an association of landholders, formed on strictly co-operative principles, and enlisted on the basis of mutual confidence arising from the mutual information of each others character and resources. The object to be the common benefit of cheap credit and not the earning of divisable profits;

(ii) There should be no share capital, the funds required for the bank being obtained by means of loans raised or deposits received;

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* These banks have not been mentioned in Vol. I, since that volume was mostly in type when the scheme was first introduced at the end of 1894, while the standard rules exemplifying (and modelling the system, were only issued after Vol. I had been completed and sent to Government. The omission is now remedied.

It will be seen that the funds are entirely provided by Government, which also concedes certain privileges.

It is believed that several banks are already (1896) at work under this scheme.

The text gives the speech of the Dewan (Sir Sheshadri Iyer, K.C.S.I.), introductory of the scheme (1894), a copy of the revised model rules (1895), and two applications from inchoate banks with the Government orders thereon.

(iii) The members to contribute their liability only. They will be at full liberty to limit this liability by prescribing a maximum for each individual loan or for the sum total of all loans, or to resign at any time and thus escape from further liability;

(iv) The funds raised by the bank to be lent only to its members, at such moderate rates of interest as will leave the bank a small margin for the actual expenses of management and for the gradual formation of a reserve fund;

(v) The affairs of the bank to be managed by a body elected from among the members themselves and giving their services gratuitously; and

(vi) No loan to be made except for an approved purpose, such as some agricultural operation which, with ordinary care, may be expected to yield enough to repay the loan and to leave some profit for the borrower.

The subordinate principles and the details of the practical working, you will find fully described in the Kanarese draft before you (of which an English abstract is appended to this address). And it only remains for me to add that a bank thus constituted and doing business on such conditions must be solvent and will be able eventually to command ample credit in the open market; but while such credit is in the process of growth—and its growth will take time—the Government will be prepared to help the bank with deposits of money at favourable rates of interest. The Government will in addition be able to grant exemption from stamp and other duties, to provide for the special registration of loans and their ready recovery, for the custody of funds in public treasuries, for the periodical audit of accounts, &c., but the co-operative spirit to which the association is to owe its existence must emanate from the agriculturists themselves. I have no doubt such a spirit is to be found in most parts of the Province, at least to the extent of enabling us to make a small beginning. Small beginnings and early struggles are the necessary conditions of vigorous life, and I indulge in the hope that the scheme, carefully worked on a moderate scale and in places where the conditions are most favourable, will soon be the means of establishing a system of agricultural banks throughout the country. They will be a great education to the people in thrift and co-operation, and they will be the means of creating a wholesome public opinion against unproductive expenditure and extravagance of all kinds.

MYSORE,
12*th October* 1894.

K. SHESHADRI IYER,
Dewan of Mysore.

AN ABSTRACT OF THE DRAFT SCHEME FOR THE ESTABLISHMENT OF AGRICULTURAL BANKS IN MYSORE.

I. Every bank to be an association of landholders formed on strictly co-operative principles, not for the purpose of earning any profit divisible among its members, but for the purpose of obtaining money by their own united credit and lending it among themselves according to the actual requirements of each member to the extent the others have confidence in him.

II. There is to be no share capital; there may be a small irrecoverable entrance fee for membership.

III. The members to be elected with reference to their honesty, general character and habits.

IV. The members to contribute their liability only. They may practically limit this liability by prescribing that not more than a fixed sum is to be lent to any one man or that not more than another fixed sum is to be lent out in all.

V. Every member to be at liberty to resign at any time and thus escape from all further liability.

VI. The funds of the bank to be raised by receiving deposits from the members or others or by loans from others.

VII. The security for repayment of the bank's loan to one of its members is the borrower's own character and resources, and those of two sureties who should also be members.

VIII. No loan to any one who is not a member is to be made on any account.

IX. No loan to be made except for an approved purpose, which generally should be some operation which, by its profit, will repay the loan. It may in exceptional cases include an approved *bonâ fide* domestic requirement. It should include the redemption of land from an existing mortgage, the liquidation of existing debts of any kind whatsoever, the purchase of agricultural stock, the extension of the holding, &c., always subject to the next condition regarding time for repayment.

X. The loan should generally be for less than one year when for the ordinary annual requirements of cultivation. It may be for longer periods, in which case the repayment should be by equal annual instalments well within the borrower's annual margin of profits.

XI. Every borrower should be bound to spend what he borrows for the express purpose for which he borrows. Default in this to lead to the recall of the loan by a three-months' notice.

XII. Absolute punctuality of repayment to be strictly enforced.

XIII. The members to give their services gratuitously.

XIV. The funds raised by the bank to be lent to its members at such moderate rates of interest as will leave the bank a small margin for the actual expenses of management and the gradual formation of a reserve fund.

XV. The reserve fund to be used for the common purposes of the members, but not to be divided among them. If the bank is wound up, the reserve to be used for some purpose of local utility.

XVI. The members of the bank to be drawn from a limited area. The bank to be essentially rural in its constitution.

XVII. The general meeting to be the absolute final authority in all matters. An Executive Committee of five or less to meet monthly or oftener and to grant loans, receive deposits, &c., and generally to conduct the business of the bank. A larger committee to supervise the operations and especially to watch that borrowers fulfil the objects for which they borrow.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE (GENERAL),— DATED 30TH NOVEMBER 1894.

READ—

The following letter, No. 536, dated 22nd November 1894, from the Deputy Commissioner, Mysore District, to the Chief Secretary to the Dewan of Mysore:—

I have the honour to state that some of the respectable raiyats of Palhalli, in the Seringapatam taluk, have resolved to form an agricultural bank, on the lines sketched by the Dewan, in his last Dasara speech. They met on the 18th instant at Palhalli and unanimously resolved to institute the bank and adopted the rules and memorandum of association at the same meeting. The Proceedings embodying the same and signed by all the members is submitted herewith.

2. There are now 16 members on the rolls, and the rules provide for lending not more than Rs. 1,000 to each member. The entrance fee has been fixed at a nominal amount, viz., 4 annas. The rates of interest fixed are Rs. 7 per cent. per annum for loans not exceeding Rs. 100, and 6 per cent. for larger sums, to be recovered at the time of repayment. In other respects, the rules are the same as those contained in the Kanarese draft rules circulated with the Dasara address. The Amildar reports that the members are respectable and solvent, and that a sum of Rs. 16,000 may be lent to them without any risk.

3. I beg that the Proceedings may be forwarded to the Registrar of Joint Stock Companies for registration, and that sanction may be accorded to the institution of the bank, and to the advancing to the bank by Government, from time to time, sums of money not exceeding in the aggregate Rs. 16,000 at any time.

4. I further request that the Government will be pleased to grant the concessions promised in the address for the remission of stamp, registration, and other dues, and for periodical audit by Government servants.

No. 39—D.H.O., dated Bangalore, 29th November 1894.

Order thereon.—The memorandum of association and rules will be forwarded to the Registrar of Joint Stock Companies for Registration.

2. The Government are pleased to reduce the stamp duty and registration fees payable on documents executed by, or in favour of, the bank as noted in the appendix.

3. The Deputy Commissioner is authorised to place in the Seringapatam taluk treasury a sum of Rs. 16,000 and to lend to the bank up to the said amount moneys as required for lending to its members. Interest must be recovered from the bank half-yearly up to 31st December and 30th June of each year at 4 per cent. per annum on the sums actually borrowed by the bank.

4. The Comptroller is requested to arrange for careful audit of the bank's accounts and preparation of correct balance sheets every half year.

5. The Government are pleased to note the appreciation of the system of agricultural banks shown by the raiyats of Palhalli, and the readiness with which they have combined to start one in their village, and they hope that intelligent and respectable raiyats in other parts of the province will follow their example before long and avail themselves of the advantages of similar banks.

T. ANANDA ROW,
Chief Secretary.

Appendix to Government Proceedings No. 39—D.H.O., dated 30th November 1894.

Stamp duty under Act I of 1879.

1. Bill of exchange or promissory note payable otherwise than on demand (article 11, clause (*b*) of the General Stamp Act).

(*a*) When not exceeding Rs. 100	1 anna.
(*b*) When exceeding Rs. 100 but not exceeding Rs. 1,000	2 annas.

2. (*a*) Bond (article 14).
(*b*) Indemnity bond (article 28).
(*c*) Mortgage deed (article 14).
(*d*) Instrument imposing further charge on mortgaged property (article 30, clause (*b*)).
(*e*) Assignment of interest secured by bond or mortgage deed.

When the amount does not exceed Rs. 100	2 annas.
Exceeding Rs. 100 but not exceeding Rs. 1,000	4 annas.

3. Memorandum of Association of a company with or without articles of association (article 43)	5 rupees.
4. Articles of Association, article 8 (if separate)	5 rupees.
5. Power-of-Attorney (article 50)	4 annas.
6. Agreement (article 5, clause (*c*))	4 annas.
7. Release (article 54)	4 annas.

Registration fees under Act III of 1877, *Section* 78.

1. When the value does not exceed Rs. 100 including schedules	8 annas.
2. Exceeding Rs. 100 but not exceeding Rs. 1,000	1 rupee.

3. Search—Free or no fees.
4. Certified copies .. .. 1 anna for 100 words.
5. Attesting power-of-Attorney .. .. 4 annas.
6. For attendance of Registering Officers at private residences .. .. .. 2 rupees.
7. Issue of commission .. .. 2 rupees.
8. Mileage to Registration Officers or others per mile .. .. 2 annas.

Fees under Act X of 1866.

1. Fees for registration of agricultural banking company whatever may be the number of members .. .. 1 rupee.
2. For registration of any increase in the number of members .. .. 1 rupee.
3. For registering any document, &c. .. .. 8 annas.
4. For making record of any fact .. .. 8 annas.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE (GENERAL),—DATED 21ST DECEMBER 1894.

READ—

The following letter No. 628, dated 8th December 1894, from the Deputy Commissioner, Mysore District, to the Chief Secretary to the Dewan of Mysore :—

I have the honour to state that some of the respectable raiyats of Kyatanhalli, Seringapatam taluk, have resolved to form an agricultural bank on the same lines as laid down for the bank at Palhalli. They met on the 5th instant at Kyatanhalli and unanimously resolved to start the bank and adopted the rules and memorandum of association at the same meeting. The proceedings embodying the same and signed by all the members are submitted herewith.

2. There are now 19 members on the rolls and the rules provided are similar to those of the Palhalli bank, excepting on the following points :—

Rule 9.—That interest should be recovered at the time of giving the loan.
Rule 12.—That loans on promissory notes should not exceed Rs. 500.
Rule 22.—If any member repays the loan before the expiry of the fixed period, interest shall be refunded to such member for the remaining period at Rs. 4 per cent.
Rule 23.—A cash balance of Rs. 500 shall be maintained in the bank, the excess being remitted to treasury.

3. I beg that the Proceedings may be forwarded to the Registrar of Joint Stock Companies for registration (the registration fees will be forwarded to the Registrar separately), and that the formation of the bank may be sanctioned and permission granted to give the bank advances from the Seringapatam taluk treasury, not exceeding in the aggregate (Rs. 19,000) nineteen-thousand for lending to its members.

No. 10397-9—*G.* 2425, *dated Bangalore,* 21*st December* 1894.

Order thereon.—The memorandum of association and rules will be forwarded to the Registrar of Joint Stock Companies for registration.

2. The Deputy Commissioner is authorised to place in the Seringapatam taluk treasury a sum of Rs. 19,000 and to lend to the bank up to the said amount moneys as required for lending to its members. Interest must be recovered from the bank half-yearly up to 31st December and 30th June of each year at 4 per cent. per annum on the sums actually borrowed by the bank.

L. ANANTASAMI RAO,
for *Chief Secretary.*

MODEL MEMORANDUM AND ARTICLES OF ASSOCIATION OF AN AGRICULTURAL BANK.*

MEMORANDUM AND ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY HAVING NO SHARE CAPITAL.

MEMORANDUM OF ASSOCIATION.

The name of this Association is the .... Agricultural Bank.

2. The Registered office of the bank will be situate at .... of the .... Taluk, in the .... District.

3. The bank is essentially rural in its constitution and is established for the relief of agricultural indebtedness within the limited area comprising the villages of.................................. in .... Taluk, in the .... District, by lending money to individual members of the bank at moderate rates of interest out of funds raised by means of the united credit of all the members.

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* No. 4453-62—Fl. 236, dated Bangalore, the 1st November 1895.

ORDER.—Under the provisions of section 95 of the Mysore Companies Regulation No. III of 1895, the Government of Mysore hereby prescribes the following addition to the forms in the Second Schedule of the aforesaid Regulation.

C. SRINIVASIENGAR,
Revenue Secretary.

4. We, the several persons whose names and addresses are subscribed, are desirous of being formed into an agricultural bank in pursuance of this Memorandum of Association :—

Number.	Signature of member.	Address, giving father's name, residence and description of member.	Witness to signature of member.	Date.

ARTICLES OF ASSOCIATION.

Members.

1. No person who does not hold arable land within the local limits mentioned in paragraph 3 of the Memorandum of Association or who does not live within such limits shall be admitted as a member of the bank.

2. The bank shall consist of the members who have signed these articles, and of such other members as may hereafter be admitted in manner following ; and the whole of the members for the time being shall together constitute the general assembly.

Provided however that no person who, owing to minority or other cause, is suffering from a legal disability, shall be admitted as a member except upon the written application of his duly appointed guardian or guardians.

3. Any person desirous of being admitted a member shall make a written application to the Board of Directors hereinafter mentioned, who shall place the same before the next meeting of the general assembly. His admission will depend upon the unanimous consent of all the members present at such general meeting. Any member absent from such meeting shall be considered to have waived his right to vote against such admission.

4. An entrance fee of half a rupee shall be paid by each of the members who have signed these articles as well as by each new member who may hereafter be admitted.

Management.

5. The general assembly shall, subject to the provisions hereinafter mentioned, be the final authority on all matters connected with the business of the bank. The general assembly shall appoint one of the members as President and another Agent, and the President and the Agent thus appointed shall hold office until relieved therefrom by others appointed by the general assembly to succeed them. The Agent shall be the Chief Accountant of the bank and shall be responsible for the proper and correct keeping of the bank's accounts.

6. The cash balance in hand, the registers, accounts, title-deeds, documents, and all other property belonging to the bank shall be kept in the bank premises in the custody of the President and the Agent, who shall be responsible for their safety.

7. The registers and accounts to be kept in the bank in addition to those named below, which are indispensable, and all the details in connection with the management of the bank, shall be settled by the general assembly in a manner not inconsistent with these articles, and recorded in the Minute Book maintained in the bank :—

1. Register of members.
2. Register of applications for loans, with the purpose thereof.
3. Cash book.
4. Ledger.
5. Minute book.
6. Half-yearly cash balance statement.

General Meetings.

8. The first meeting of the general assembly shall be held at such time, not more than three months after the incorporation of the association, and at such place as the members may determine.

9. Subsequent general meetings shall be held, at the least, once in every six months, and at such place as the general assembly may prescribe.

10. The above-mentioned general meetings shall be called ordinary meetings ; all other general meetings shall be called extraordinary.

11. The directors hereinafter mentioned may, whenever they think fit, and they shall, upon a requisition made in writing by any three or more members, convene an extraordinary general meeting.

12. Any requisition made by the members as above shall express the object of the meeting proposed to be called, and shall be left at the registered office of the bank.

13. Upon the receipt of such requisition, the directors shall forthwith proceed to convene an extraordinary general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists or any other three members may themselves convene an extraordinary general meeting.

Proceedings at General Meetings.

14. Seven days' notice at the least, specifying the place, the day and the hour of meeting, and, in case of special business, the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed at a general meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings of any general meeting.

15. All business shall be deemed special that is transacted at an extraordinary meeting and all that is transacted at an ordinary meeting, with the exception of the consideration of the accounts, balance sheets and the ordinary report of the directors.

16. No business shall be transacted at any meeting unless a quorum of members is present at the commencement of such business. Such quorum shall be ascertained as follows, that is to say, if the members of the bank at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members, with this limitation that no quorum shall in any case exceed fifteen.

17. If, within one hour from the time appointed for the meeting, a quorum of members is not present, the meeting, if convened upon the requisition of members, shall be dissolved. In any other case, it shall stand adjourned to the same day in the next week at the same time and place; and if at such adjourned meeting a quorum is not present, it shall be adjourned *sine die*.

18. The President shall preside as Chairman at every general meeting.

19. If, at any general meeting, the President is not present within 15 minutes after the time appointed for holding the same, the members shall choose some one of their number to be Chairman of such meeting.

20. The Chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

Votes of Members.

21. Every member shall have one vote and no more; and the resolution of the meeting shall be determined by the majority of votes unless otherwise expressly provided.

22. If any member, owing to minority or other cause, is suffering from a legal disability, he may vote by his duly-appointed guardian or any one of such guardians if more than one.

23. No member shall be entitled to vote at any meeting if he is a defaulter at the time of such meeting.

24. Votes may be given either personally or by a proxy appointed in writing duly signed by the appointer.

25. No person shall be appointed a proxy who is not a member, and the instrument appointing him shall be deposited at the registered office of the bank not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

26. Any instrument appointing a proxy shall be in the following form :—

.... Agricultural Bank.

I.................................... of.................................. being a member of the................................ Agricultural bank, hereby appoint........................ .... of.................................... as my proxy to vote for me and on my behalf at the general meeting of the Bank to be held on the.......... day of............ and at any adjournment thereof (or at any meeting of the bank that may be held in the year......).

Date..............................
Signature..........................
Witness............................

Board of Directors.

27. In subordination to the general assembly, the affairs of the bank shall be managed by a Board of Directors consisting of the President and the Agent and of not less than five and not more than seven members chosen every half-year by the general assembly.

28. The President and the Agent shall have joint power to sign, and to transact business, on behalf of and under the instructions of the Board of Directors. The Agent shall prepare the balance sheet of the bank for every half year ending 30th June and 31st December, and lay it before the President on or before the 15th of July and 15th of January, respectively, following.

29. If the office of President or Agent becomes vacant, the remaining members of the Board of Directors shall forthwith appoint any member of the bank (whether on the Board or not) as Provisional President or Agent as the case may be, and convene a meeting of the general assembly on the earliest date possible for appointing a permanent successor to the vacant office.

30. A retiring director shall be re-eligible.

31. Subject to the maximum and minimum laid down in paragraph 27 above, the general assembly, may from time to time in general meeting, increase or reduce the number of members constituting the Board of Directors.

32. Any casual vacancy occurring among the members of the Board of Directors may be filled up by the remaining members of that Board; but any person so chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

33. A general meeting may remove any director before the expiration of his period of office, and may appoint another person in his stead. The person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

Proceedings of Directors.

34. The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business. Questions arising at any time shall, unless otherwise expressly provided for in these articles, be decided by a majority of votes. In case of an equality of votes, the President shall have a second or casting vote. A director may at any time summon a meeting of the Board of Directors.

35. The President shall be the Chairman of the meetings of the Board of Directors; but if at any meeting the President is not present at the time appointed for holding the same, the directors present shall choose one of their number to be Chairman of such meeting.

36. The Board of Directors may delegate any of their powers to a committee consisting of the President, the Agent and such member or members of their body as they think fit. Such committee shall be called the Executive Committee, and shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Board of Directors.

Bank's Funds.

37. The bank shall have no share capital, but shall carry on its business with funds raised by means of loans, as well as from deposits received from the members themselves or from others. The aggregate amount of such funds shall not for the present exceed Rs.............................. The general assembly shall, however, be competent to resolve upon an increase of the funds of the Bank if such a course should at any time hereafter be found necessary owing to the expansion of business.

38. The rates of interest to be paid on loans and deposits shall, from time to time, be prescribed by the general assembly.

39. The liability of the members of the bank shall be equal as between themselves and joint and several as regards all others.

40. The cash balance in the hands of the Board of Directors shall not ordinarily exceed Rs. .... All sums above this limit shall be lodged in a Government Treasury or deposited in a Government Savings Bank and be drawn upon from time to time as occasion may arise.

Loans.

41. Loans will be granted only to the members of the bank and will be of the following classes :—

Class I. On the security of immovable property.
Class II. On joint pro-notes.
Class III. On joint instalment bonds.
Class IV. On *mubadala* or hand loans

42. A loan of Class IV shall not exceed Rs.............., while a loan of any other class may be granted to the extent of Rs......................... Provided however that no member shall at any time be indebted to the bank in a larger sum than Rs.............. .., including loans of all kinds granted both to himself and to other members on his security.

43. No person who is not a member of the bank, shall be accepted as security for any loan.

44. No loan shall be made except for an approved purpose connected with some agricultural operation which by its profits would enable the borrower to repay the loan, or for the redemption of land from an existing mortgage or for the liquidation of debts of any kind whatsoever existing at the time of the formation of the bank or at the time of the admission of the borrower as a member of the bank. The agricultural operation referred to above shall include the extension or improvement of the borrower's holding, and the purchase of manure, seed, cattle and implements, and other similar purposes.

45. An application for a loan may be made to the Board of Directors, or, where there has been a delegation, to the Executive Committee, either verbally or in writing. The Board of Directors, or the Executive Committee, as the case may be, shall enquire into the object of the loan and into the sufficiency or otherwise of the security offered, and make a record of the result of such enquiry in the register of applications for loans. The applicant and his surety or sureties shall be bound to make true statements on matters thus enquired into. After making all such enquiry as may be necessary, the Board of Directors or the Executive Committee, as the case may be, shall either grant or refuse the loans applied for. Appeals from their refusal shall lie to the general assembly. If a clear majority of not less than two-thirds of the total number of members of the bank other than the applicant and his proposed surety or sureties, if any, should not be in favour of the grant, the refusal made as above shall be affirmed.

46. A loan of Class I—on the security of immovable property—shall ordinarily be repayable in less than five years, and in special cases, in any period not exceeding ten years, by equal annual instalments well within the borrower's annual margin of profits.

47. Loans of Classes II and III—on joint pro-notes and joint instalment bonds—shall ordinarily be repaid in less than a year. They may however be allowed to be renewed from time to time on good cause shown.

48. Loans of Class IV—hand loans—shall not be granted for any period exceeding three months. Renewals may be permitted.

49. No security in addition to the hypothecation of immovable property is ordinarily required in respect of loans belonging to Class I, though in special cases the additional security of one or more members may be required. Nor need any security be demanded for loans falling under Class IV. As regards loans coming under Classes II and III, there should be at least two sureties.

50. The highest rates of interest chargeable on the different kinds of loans are as follow:—

Class I, 6 per cent. per annum if the loan does not exceed Rs. 100, and 5½ per cent. when it exceeds Rs. 100. Where the loan is repayable by annual instalments, interest is chargeable only on so much of the loan as is actually outstanding in the beginning of each year.

Class II, 7 per cent. when the loan is Rs. 100 and under, and 6 per cent. when it exceeds Rs. 100.

Class III, 8 per cent. when the loan is Rs. 100 and under, and 7 per cent. when it exceeds Rs. 100. The interest is chargeable only on so much of the loan as is actually outstanding on the 1st of every month.

Class IV, 1 pie per diem for every Rs. 20.

51. The general assembly shall be at liberty to fix from time to time the actual rates at which interest should be charged, such rates not exceeding the maxima above prescribed.

52. The general assembly shall likewise be competent to fix and prescribe from time to time, the time at which and the mode in which the interest chargeable on the several descriptions of loan made by the bank, shall be recovered.

53. When a loan is repaid or recalled before the time fixed for its repayment, a proportionate reduction or refund shall be allowed of the interest payable or paid on account of such loan.

54. Absolute punctuality of repayment shall be enforced under pain of such fine as may be imposed by the general or special direction of the general assembly for ordinary and excusable defaults, and of expulsion, as hereinafter provided, for persistent defaults.

55. No loan shall be appropriated for any other purpose than that for which it is obtained. Its appropriation for any other than an approved purpose shall render it liable to be recalled by a notice not exceeding three weeks.

Disposal of Profits.

56. The interest due on loans and deposits, the charges of establishment and the cost of contingencies, shall be met from the interest levied on the different kinds of loans made by the bank and from the entrance fee levied from the members on admission, as also from the fines referred to in paragraph 54 above. The surplus shall form a reserve fund which shall not be divisible among the members, but shall, after meeting unforeseen losses, if any, go towards the reduction of the loans and deposits required for carrying on the business of the bank.

57. The members shall receive no remuneration for their services in connection with the bank.

Removal, Resignation, Death, &c.

58. Any member persistently guilty of default or of violation of the rules, or of gross neglect of duty, shall render himself liable to removal from membership by the votes of a majority of the general assembly.

59. Any member who may permanently leave the local limits referred to in paragraph 1 or who may cease to hold arable land therein, shall cease to be a member of the bank from the date of such departure or cessation.

60. Any member shall be at liberty to sever his connection with the bank by tendering a written resignation to the Board of Directors or the Executive Committee.

61. The death of any member shall result in the removal of his name from the Roll of Members, unless his legal heir or representative shall, in writing, consent to take his place with all his liabilities and obligations.

Provided, however, that if such legal heir or representative is, owing to minority or other cause, suffering from a legal disability, he shall not be allowed to take the place of a deceased member except upon written application made by his duly appointed guardian or guardians.

62. The removal or resignation of a member under paragraphs 58, 59, 60 or 61, shall secure for him and his assets, or for his assets, as the case may be, freedom from all liability for loans and deposits obtained, or in respect of loans made, and acts done or omitted to be done, subsequent to the date of his removal or resignation, but shall in no way affect liabilities contracted by the bank previously thereto.

Accounts.

63. The accounts of the bank shall be audited by a committee of three members, to be called the Audit Committee.

64. The first Audit Committee shall be nominated by the Board of Directors out of the body of members of the bank.

65. Subsequent Audit Committee shall be nominated by the general assembly.

66. The Audit Committee shall be supplied with a copy of the balance sheet, and it shall be their duty to examine the same with the accounts and vouchers relating thereto.

67. The Audit Committee shall have a list delivered to them of all books kept by the bank, and they shall at all reasonable times have access to the books and accounts of the bank; and they may, in relation to such accounts, examine the President or Agent or any other member of the Board of Directors.

68. The Audit Committee shall make a report to the general assembly upon the balance sheet and accounts; and in every such report they shall state whether, in their opinion, the balance sheet is a full and fair balance sheet containing the particulars required, and properly drawn up, so as to exhibit a true and correct view of the state of the bank's affairs, and in case they have called for explanations or information from the Board of Directors, whether such explanations or information have or has been given by the Board, and whether they or it have or has been satisfactory; and such report shall be read together with the report of the Board of Directors at the next ordinary general meeting.

69. The powers conferred, and the duties imposed upon the Audit Committee shall, as far as may be, be exercised and performed by such officer or officers as the Government may, from time to time, appoint for the purpose of auditing the accounts of the bank or enquiring into its affairs.

Notices.

70. A notice may be served by the bank upon any member, either personally, or by sending it through the post in a letter addressed to such member at his registered place of abode.

71. Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and, in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the Post Office.

General.

72. No member shall so deal with his property as materially to diminish his resources and affect his solvency, on the strength of which he has been admitted to the benefits of this bank.

73. It shall be lawful for the Board of Directors or the Executive Committee as the case may be, subject to the approval of the general assembly, to re-call by three week's notice any loan made to, or on the security of, any member who by his conduct or dealings has endangered the security of any loan granted by the bank or who has ceased to be a member of the bank under paragraphs 58, 59, or 60, or whose legal heir or representative after his death, does not take his place notwithstanding the non-existence of any legal disability.

Provided however that no loan shall be liable to be recalled by reason merely of such legal heir or representative not taking the place of the deceased member in consequence of his minority or other legal disability.

74. Any loan made to the bank by Government shall be deemed to be an advance made for agricultural objects to the members of the bank as holders of arable land, within the meaning of section 194 of the Mysore Land Revenue Code, and the same shall be recoverable from the members jointly and severally as an arrear of land revenue under the provisions of the Mysore Land Revenue Code or of any other law for the time being in force.

75. If, owing to resignations, deaths, removals or other causes, the total number of members of the bank should at any time fall below two-thirds of the number which constituted the bank on the date of its formation or on the date of the augmentation of its funds, or if according to a majority of votes at a general meeting there exists a disagreement among the members so serious as to render the further continuance of the bank undesirable, or if Government directs the recovery of loans made by it to the bank on the ground that the affairs of the bank are in an unsatisfactory condition, all further transactions shall be stopped, and all outstanding loans of whatever description shall be recalled by a notice not exceeding three months, at the end of which period the bank shall be wound up under such arrangements, not inconsistent with law, as shall be decided upon at a general meeting to be convened for the purpose. The members shall however continue responsible for the due discharge of all existing debts and liabilities.

76. When the bank is wound up, all surplus remaining at its credit shall be used for such purpose of local general utility as shall be resolved upon by the majority of the members at a general meeting subject to the approval of Government.

Number.	Signature of member.	Address, giving father's name, residence and description of member.	Witness to signature of member.	Date.

No. 5038-47—Fl. 274, dated Bangalore, 2nd December 1895.

Order.—One hundred copies of the Form of Memorandum and Articles of Association prescribed for use by agricultural banks in the Proceedings of Government No. 4453-62, dated 1st November 1895, will at once be supplied to each Deputy Commissioner for distribution among the several taluks in his district.

2. The Superintendent of the Government Press should arrange to have a supply of 1,000 copies of the Form in stock so as to enable him to meet future demands without delay.

3. The Deputy Commissioners are requested to give wide publicity to the scheme and to place promptly and free of cost at the disposal of applicants as many copies of the form as may reasonably be required by them.

4. All applications to Government for the grant of loans to agricultural banks should be made to the Deputy Commissioner, and should be accompanied by memoranda and articles of association in the form above referred to. The Deputy Commissioner should satisfy himself as to the solvency of the applicants and the *bonâ fides* of their applications, and submit his recommendation to Government with the least practicable delay, with information regarding the applicants in the appended form and with an extract from the taluk map of the villages of the applicants.

5. Until further orders, Government will be prepared to grant loans to agricultural banks within reasonable limits, at four per cent. per annum.

6. It is the wish of Government that as a rule, no loan of Class IV should, for the present, exceed Rs. 50, while no loan of any of the other three classes should exceed Rs. 1,000 : nor should any member be at any time indebted to the bank in a larger sum than Rs. 2,000 including loans of all descriptions, granted both to himself and to other members on his security. Any case requiring an exceptional treatment in this respect should be specially reported for the orders of Government.

C. Sreenivasiengar,
Revenue Secretary.

Proposed name of the Bank and the names of villages to be benefited by it.	Names of members.	Residence of members.	Arable land possessed.				Probable value of land.	If encumbered, how and for how much.	Remarks.
			Kandayam land.		Inam land.				
			Area.	Assessment.	Area.	Jodi or quit rent.			

CHAPTER III.—POPULAR BANKS.

GERMAN LAW OF 1st MAY 1889 ON CO-OPERATIVE SOCIETIES.

Chapter I.—Formation of a Society.

1. Societies which do not limit the number of their members, and have as their object the encouragement of the economic interests of members by means of operations in common, especially—
(a) loan and credit societies ;
(b) societies dealing with raw materials ;
(c) societies for the sale in common of agricultural and industrial produce ;
(d) societies for the production and sale of goods for the common account ;
(e) societies for the wholesale purchase for the common account of food stuffs and agricultural requisites, and for their retail sale to members ;
(f) societies for the acquisition of implements or machines for agricultural and industrial purposes, or for use in common ;
(g) societies for the acquisition of houses ;
obtain the rights of a 'Registered society' under the conditions laid down by the law.

2. Societies may be instituted—
(a) of such a kind that the members are individually responsible to the society for its engagements and directly to its creditors up to the total of their property (societies of unlimited liability) ;
(b) * of such a kind that the members, though responsible up to the total of their property, are not so responsible directly towards the creditors of the society, but are merely bound to pay to the society such additional sums as may be necessary to satisfy the creditors (societies of liability unlimited, but responsible for *pro ratâ* contributions) ;
(c) of such a kind that the members are responsible for the engagements of the society only in a sum determined beforehand (limited societies).

3. The designation of the society must set out the object of the enterprise, and indicate whether it is limited or unlimited according to the definition of section 2.

The names of members or others must not appear † in the designation of the society. Such designation must clearly distinguish it from any other registered society already existing in the same neighbourhood or parish.

4. There must be at least seven members for the operation of a society.

5. The articles of association must be in writing.

6. The articles must contain—
(a) the designation and address of the society ;
(b) the object of the enterprise ;
(c) the arrangements for the summoning of general meetings, for the confirmation of its resolutions, and for the presiding over such meetings ;
(d) ‡ the arrangements for publishing the society's affairs and the official journals in which they are to be published.

7. The articles must further determine—
(a) whether the responsibility of members is unlimited [section 2 (a) and (b)] or limited [(section 2 (c)] ;
(b) § the maximum amount for which any member may take shares. The amount to be paid up must also be determined ; such amount must be at least one-tenth of the share value ;

* Explanation is required : the first class of society is governed by the right (Einzelangriff, saisie sur un seul) recognized by the law of 1868, by which any creditor of a society or liquidator might select any member or members he chose from whom to recover the whole of his dues, leaving such member to recover from the liquidating trustee. The present law has created a new class of unlimited society in which the right of Einzelangriff is not recognized, but the creditor must apply to the liquidating trustee who may call upon every member to pay in such additional sums as will make up any deficit due by the society.

The third class of society admits not only the ordinary form of society by which the responsibility of members is limited to the nominal value of their shares, but a form by which each member may be called on to pay such further sum—usually a multiple of the share value—as has been determined in advance by the articles of association.

See sections 112 to 139 for further special provisions for each class of society.

† It is thus seen that the societies are not partnerships, but are of the class called sociétés anonymes in the French law, and as the number of members and shares is, by the definition of section 1, unlimited, and will constantly be increasing or decreasing (section 63, &c.), they are also 'à capital variable.'

‡ It is important to observe that the law requires the publication of every society's articles (section 12), its annual balance sheet, &c. (section 31), its dissolution or liquidation (section 80), the results of liquidation (section 88), &c. Publicity is, in every European country, the first requirement ; everything must be laid open to the public view.

§ Sub-section (b) is intended to favour the democratisation of the societies : the clause suggests the limitation of an individual's shares so as to prevent a preponderance of capitalists, and hence a divergence from the co-operative idea. But this sub-section is also the expression of the legislature on the debated share question. The Raiffeisen societies rejected the idea of shares as leading to a desire for high dividends and as unnecessary : the law decides that shares are necessary. But they leave the societies to determine the value of the shares and the amount to be paid up. Hence a society may fix the value of its shares at 1 mark (shilling) and require only one-tenth to be paid up : this, it is believed, is actually done by some societies. Moreover, this one-tenth may be spread out over many instalments extending over several years. Hence the law can practically be evaded or reduced to an absurdity. Sub-section (d) is most important : the reserve plays a very large part in these societies, especially in the Raiffeisen Unions. It is much neglected in the Madras Nidhis ; *see* sections 20 and 156.

(*c*) the principles for the preparation and verification of the balance sheet;
(*d*) the formation of a reserve to cover any losses; the mode of forming the reserve must be especially stated, and especially the proportion of the annual profits which is to be carried to the reserve, and the maximum amount of such reserve.

8. The articles should also contain provisions if it is intended to determine—
(*a*) the limitation of the duration of the society to a fixed time;
(*b*) * the delimitation of the area from which members may be accepted;
(*c*) the business year;
(*d*) † the majority which shall be required in a general meeting to decide certain matters;
(*e*) ‡ the extension of the operations of the society to persons who are not members. But societies which are established for credit purposes may not extend their operations, so far as the giving of such credit is concerned, to persons other than members. Societies for distribution [section 1 (*e*)] may not ordinarily sell goods except to persons recognized as members or to their representatives.

9. A society must have a directorate and council of supervision, the members of both of which must be members of the society. If a society has registered societies as the whole or part of its members, § the individual members of such societies may become members of its directorate or council of supervision.

10. The ‖ articles and the names of the directors must be copied out and entered on the register of societies by the court within whose jurisdiction the society is located.

The register of societies is kept by the court, whose duty it is to maintain the register of commerce.

11. It is the directors who are bound to give notice of intended registration.

To this notice must be added—
(*a*) the articles, which must be in duplicate and signed by all the existing members;
(*b*) a list of the members;
(*c*) a copy of all papers relating to the appointment of the directors and of the council of supervision. The directors must also enter their signatures before the court, or transmit their signatures in the prescribed form. One copy of the articles is attested by the court and returned with an appended certificate of registration. The other papers are retained by the court.

12. The articles as registered must be published in abstract by the court.

The published notice must contain—
(*a*) the date of the articles;
(*b*) the designation and address of the society;
(*c*) the object of the enterprise;
(*d*) ¶ the forms in which the society's returns will be made and the names of the official journals in which they will be published;
(*e*) the duration of the society, if it is for a limited term;
(*f*) its regular business year when such does not correspond with the calendar year;
(*g*) the names and addresses of the directors.

It must also be notified that the list of members may be examined by the public at any time that the court is open.

If the articles provide a mode in which the directors shall publish their resolutions, and if they are authorized to sign for the society, such fact shall also be notified.

13. Until a society has been entered on the register, it does not possess the rights of a registered society.

14. Whenever a branch is established in any place, the court having jurisdiction in that place must be advised of the fact, with a view to registration of the branch. The notice must contain entries

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* Schulze-Delitzsch Societies have no fixed area unless of the Province in which each is established. But Raiffeisen Societies are strictly limited to very small areas, usually a village.

† Generally speaking, an ordinary majority suffices, but for particular purposes, *e.g.*, an alteration of the objects of the society, a special majority may be required, *cf.* section 16 *infra*.

‡ This is very important. Credit societies must, so far as the grant of credit is concerned, lend only to members. This is intended to prevent co-operative loan societies from becoming mere joint stock banking concerns and to preserve the co-operative idea; it is equally intended thereby to safeguard the societies, for it was found by experience that, owing to the greed for dividends and for that increase of *directors'* profits which was due to the grant of a commission on business done, risky outside business was undertaken, for which the directors had no sufficient experience or qualification. The co-operative idea connotes membership, and no departure from it should be allowed. This does not forbid borrowing from outside whether by loans or deposits: it is the lending of the society's money to outsiders that is forbidden.

§ This is to provide for the case of central societies or unions which accept as members, in whole or part, individual societies; *see* section 52, &c., *infra*.

For the duties, &c., of directors and councils, *see* Chapters III and IX of this law.

‖ This section relates to the provisions of the Code of Commerce, by which all business men (commerçants) or societies registered as commerçants (*see* section 17 below) must be registered at a Commercial Court. An account of these provisions and of these courts would be too lengthy to find place here; some of them and of the duties of the courts and of commerçants will be found elsewhere. Suffice it to say that every European country looks after its traders and their accounts,—and taxes them too,—in a fashion not dreamed of in England or India, and that its Commercial Courts are excellent institutions, presided over by Honorary Judges, which hear most of the original commercial cases; they were unknown in England till lately, but a Commercial Court has, it is believed, recently been established in London. In this law the court takes the place held by the Registrar of Friendly, &c., societies in England. For a description of his powers *see* 'Friendly Societies' in Vol. I. Some such controlling or supervising authority is found absolutely necessary in the matter of co-operative societies and savings banks whether in England, America or the Continent of Europe.

As stated above, publicity is a principal European method of supervision over the work of societies.

¶ It would seem better to give power to the court or some public officer to prescribe the forms: this is done by the Registrar of Friendly, &c., Societies in England.

as mentioned in section 12, and two certified copies of the articles must be appended, together with a copy of the list of members attested by the court having jurisdiction at the address of the parent society.

The court will return one copy with a certificate of registration, and must inform the court having jurisdiction at the address of the parent society, of this registration, with a view to its being entered on the register of societies.

15. After the articles have been entered at the registering office, any person desiring to become a member must sign a declaration of unconditional adhesion to the articles. If the candidate is admitted by the directors, the declaration must be sent to the court for entry on the list of members: this entry will at once be made. Upon such * entry by the court, the candidate attains the status of a member.

The court must notify the fact of the entry to the member and to the directors. The original declaration is filed by the court. But if the court refuses to enter the candidate as member, the declaration is returned.

16. Every change in the articles, or extension of duration of a terminating society, must be settled only by a general meeting. If it be proposed to change the object of a society or to increase the individual value of the shares,† there must be a majority of three-fourths of the members present at ‡ the meeting. The articles may impose even stricter conditions. For all other modifications of the articles a majority of three-fourths of the members present is required, unless the articles contain conditions to the contrary.

Such resolutions must be notified (to the court) and registered, two copies, as provided in section 11, being sent. But the resolution need not be published, unless it has to do with the items mentioned in section 12 (*b*) and (*e*).

The resolution is of no effect until duly registered.

Chapter II.—Relation of the Society with its Members.

17. A registered society has, as such, certain rights and duties; it can acquire estates and real rights over property: it can institute a suit and be sued before a court.

Societies are considered as business entities (commerçants) in the sense of the Code of Commerce, if the present law contains no condition to the contrary.

18. The legal relations of a society with its members are established by its articles. These articles must not contain any condition at variance with any stipulation of the present law unless such variation is expressly permitted by the law.

19. The profit or loss resulting from the transactions of any year may be divided amongst the members. For the first year this division must be in proportion to the sums paid up by each member on his shares; for each subsequent year, in proportion to the amount paid up by the close of the preceding year, such amount being credited with any gains and debited with any loss. Profits will be simply carried to the credit of a member until his share is doubled.

The articles may make other rules for the division of profit and loss in such wise as to determine in what proportion the profits are to be distributed to members before the shares have been fully paid up. When the share amounts have been reduced by losses, profits must not be divided till the share value has been again made up.

20. The articles may determine that, for a fixed period which may not exceed ten years (profits shall not be divided § but shall be carried to the reserve. At the end of that time the decision may be renewed, for which purpose, a simple majority will suffice unless the articles contain any conditions to the contrary.

21. (Omitted.)

22. The reduction of the share values ‖ or of the instalments due thereon or the extension of the instalment dates are only allowable upon the conditions laid down for the division of capital in case of liquidation.

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* Here again publicity is the essence of the transaction. Just as a mortgage deed in Germany, though duly signed and attested, is of absolutely *no effect* until it is duly registered, so a candidate, though duly accepted, does not acquire the status of member till registered. The elaborate procedure laid down by this section seems unnecessary: it would probably suffice if the directorate send in a quarterly attested list. Nothing is stated as to the grounds upon which a court may refuse entry.

† It is frequently found advisable as a society grows older to continue the habit of thrift and to increase the working capital by increasing not the number which is unlimited (section 1), but the value of the shares, *e.g.*, from £5 to £10.

‡ It is noticeable that no provision is laid down as to the proportion of members to be present at a meeting to the total number of members, even when a radical change is to be made. Hence a packed meeting of a very few members might radically alter the objects, &c., of a society. A radical change in constitution ought to be safeguarded by requiring the agreement of a definite proportion of *members*, not of members present at a meeting.

As regards the above two changes, the law absolutely requires a three-fourths majority; in other cases a three-fourths majority can be dispensed with by the articles.

§ The Raiffeisen Societies have only small shares and therefore only small dividends proper; the bulk of the profits go to a reserve. According to the present law, a society cannot enter in its articles a provision rejecting dividends absolutely, but only for ten years. But the ten-year period can be indefinitely renewed, and by cutting down the interest on loans or by expending profits on public objects, there need be no difficulty.

Nevertheless the provision seems inadvisable: why should not each society be left to decide for itself permanently by its articles, whether it will or will not adopt the dividend principle? Moreover, what was intended to be a sop to the Raiffeisen ideas is really, as M. Durand points out, a blow in the face, for it enables Raiffeisen Societies established on the non-dividend principle, to adopt the dividend system at the end of ten years by mere efflux of time and without vote: in other words a society may change its whole principle of action without any resolution to that effect by its members! And even if the matter be debated, the resolution may be carried by a simple majority, whereas a three-fourths majority is ordinarily required even for an ordinary modification of the articles of association.

‖ By reduction of share values is to be understood the value of the individual share, *e.g.*, from £10 to £5, not of the total share amount, for that is constantly increasing and decreasing. The reduction of the value of individual shares is, *pro tanto*, equivalent to a division of the society's capital: hence the provision of the law: *see* sections 88 and 89 *infra*.

The share of a member, so long as he has not retired from the society, can neither be returned to him by the society nor accepted as security in its operations with him.

A member cannot set off the value of his share in a settlement of accounts.

23. Members are responsible for the obligations of a society to the extent determined by the present law.

Any one entering a society becomes responsible for obligations contracted before such entry.

Any stipulation contrary to the above is void.

Female members cannot avail themselves of any (special) legal privileges granted to them by the general law of the country, so far as regards obligations contracted by them in virtue of their membership. *

Chapter III.—Administration.

24. A society is represented, both judicially and otherwise by the directorate.

The directorate should be composed of at least two members appointed by the general meeting; the articles may fix a larger number of directors and other modes of appointment.

The directors may be either paid or unpaid. Their appointment may be revoked at any moment without prejudice to any liabilities due by reason of existing arrangements.

25. The directors must signify their acceptance of office in the prescribed form. If no special stipulation has been made in this respect, all the members of the directorate should sign the declaration, and in any case not less than two should be appointed for the purpose. The signature must add the designation of the society to the signature of the signing directors.

26. A society is legally bound by the arrangements concluded in its name by the directorate.

A certificate by the court (section 10) that the persons entered therein are entered as directors in the register of societies is sufficient proof of their status and powers as directors.

27. The directors are bound, as regards the society, by the restrictions entered in the articles, or in the resolutions of general meetings as regards their right to represent the society.

As regards third parties such limitation of the directors' right to represent the society is of no legal effect, † especially in cases when the directors' powers extend only to certain operations or classes of operations, or for a given time or area, or when the approval of a general meeting is required or that of the council of supervision or of any other organ of the society.

28. Every change in the *personnel* of the directorate, any new election, or any total withdrawal of their powers, must at once be notified to the court for entry in the register of societies. New directors must at once give their signatures before the court, or send them on a properly certified form. A copy of the documents relative to their appointment or to the withdrawal of their powers must be sent with the notification for being filed in the court. At every re-election registration shall be followed by publication.

29. Any modification in the directorate, or withdrawal of powers from a director, cannot be pleaded by a society as against a third party so long as such modification, &c., has not been duly registered and published, unless the society can prove that the party was aware of the modification, &c., at the time when the contract was arranged. After such registration and publication a third party will be bound to admit it as against himself, unless circumstances admit of his proving that, at the time of the operation, he neither knew nor could know of the modification, &c.

30. The directors must maintain a statement of members and keep it up to date.

31. The directors are bound to see that the society keeps the books ‡ prescribed (by law).

Six months after the expiry of each business year, the directors must publish the balance sheet, the list of members who have entered or withdrawn during the year, and the number of those on the list at the end of the year. These returns must be sent for entry on the register of societies.

32. The directors must conduct the affairs of the society in a thoroughly business-like fashion. Those who neglect their duties are responsible both individually and collectively to the society for any loss so caused. They are especially liable to repay any sums which they may have paid as profits out of capital contrary to the provisions of sections 19 and 22. But no proceedings shall lie after the lapse of five years.

33. Any stipulations regarding directors are equally applicable to their representatives.

34. The committee of supervision shall consist of three members unless the articles prescribe a greater number: they must be elected by the general meeting. The articles should fix the proportion of votes required for such elections.

Members of the committee must have no interest (pecuniary) in the results of the society's operations. The appointment of any such member may be revoked by a general meeting even before the expiration of his term of duty. In such case the vote must be given by a majority of three-fourths of the members present at the meeting.

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* This last paragraph seems to mean that a female member who, as a female, might possibly, under the general law, evade payment of a debt, cannot plead any such law as against her obligations contracted with the society.

† That is, a society has its remedy against directors who exceed their powers, but is bound as regards contracts duly entered into in good faith with third parties, even though the directors have exceeded their powers in making such contracts.

‡ The Commercial Code of every European country requires that not only every society or firm, but every 'commerçant,' *i.e.*, business man, trader, shopkeeper, money-lender, &c., &c., of every description, who is liable under the law to take out a license (patente), *i.e.*, every one who trades except perhaps costermongers, must keep certain prescribed accounts. The importance of the subject as regards money lending, especially under the régime of the private money-lender or usurer and his generally ignorant clientèle, is so great that it is dealt with in full in the body of this report; *see* Vol. I, pp. 322, 323.

This section (31) is very important: regular accounts and full publicity are prescribed.

35. The members of the committee of supervision * must not, at the same time, be members of the directorate or permanent representatives of directors, nor be in charge of the society's operations as employés. For a certain period, to be determined beforehand, the committee may appoint any of its members to represent any directors under suspension during this period, and until he has been formally discharged from this duty, such member of committee may not exercise his functions as such member of committee.

If directors retire, they cannot be elected to the committee of supervision until their retirement from the directorate has been duly notified.

36. The committee of supervision must supervise the directorate in every branch of operations, and for this purpose must keep itself informed of the progress of business. It can, at any time, call for reports from the directors upon business matters, and can examine, either directly or by (ordinary) members appointed by it, the books and papers of the society, in order to verify the cash balance and the assets in bills, bonds, goods, &c. It is bound to examine the annual statement, the balance sheets, and the proposals for the distribution of profit and loss, and to make a report on these points to the general meeting before the balance sheet is passed.

It should call a general meeting whenever such may be advisable.

The other duties of the committee are determined by the articles of each society.

Members of committee cannot delegate their duties to other persons.

37. The committee represents the society in concluding contracts with the directorate, and brings against the directors any action (suit) determined upon by the general meeting.

A director can obtain credit from a society only after due authorization by the committee of supervision, unless other stipulations have been made on this point, or unless such credit be absolutely forbidden. The same rule applies in the case of a director offered as surety for a loan. In case of proceedings against the committee of supervision, the society is represented by persons chosen at a general meeting and provided with powers of attorney *ad hoc*.

38. The committee is authorized in its judgment provisionally to suspend directors from their duties pending the decision of a general meeting to be at once convoked, and to take all measures necessary for the temporary conduct of their duties.

39. The members of the committee must conduct their duties in thorough business fashion: those who neglect them are responsible to the society, individually and collectively, for any damage so caused.

They are especially bound to repay any capital wrongly disbursed as in section 32 (*q.v.*) when they have been cognizant of such disbursement though not actually concerned in it.

A limitation of five years is prescribed for any proceedings under this section.

40. A society may also carry on (particular items of) business and be represented in such business by other persons if duly provided with powers of attorney, *ad hoc*, or by its employés. In such case these persons exercise such powers as may be delegated to them, and in case of doubt, such legal powers as are ordinarily required for the conduct of the particular class of business.†

General powers of attorney for the conduct of its whole business are not admissible.

41. The rights granted to members of a society in regard to the business of the society, especially with reference to the conduct of business, the examination of the balance sheet and the distribution of profit and loss are exercised by the general meeting.

Each member of a society has one ‡ vote.

A member cannot vote on the subject of his exemption or discharge from a particular obligation. Nor can he do so in a matter affecting any legal question between himself and the society.

Members cannot exercise their power of voting by proxy. This rule does not apply to entities *incapable* of personal voting, such as corporations, associations or other unions, or to females if the articles forbid their actual participation in a general meeting.

A proxy can only represent one member.

42. General meetings are convoked by the directors, unless other persons are similarly authorized by the articles or by the present law.

Such general meeting must be called whenever the interests of the society require it, as well as at such times as may be expressly laid down by the articles or by the present law.

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* The committee of supervision is a European addition to the administration of societies and is most important. Its duties will be found in detail under the various classes of co-operative societies described in Vol. I, in the following sections of the law, and in the model articles. To some extent this committee is found in the audit committees—where they exist—of the Madras Nidhis, but in the German Law, audit is separately and expressly provided for, this provision being the result of experience.

The importance attached to this committee may be judged from the severe penalty entered in section 142 for the non-appointment of such a committee.

† This section provides for a society giving powers to particular individuals for the conduct of special work. But as the directors are the proper representatives of a society, the last clause, forbidding general powers of attorney, prevents a society from practically ousting its directors without dismissing them.

‡ In these co-operative societies, the democratic principle of 'one man one vote' is prescribed by law. This is intended to preserve the idea that the society is an aggregation of individuals not of capital, and to prevent the accumulation of power in one or a few hands. At the same time the principle has the objection that the ignorant member of one share has just as much power as the experienced director or business man.

The refusal to admit proxies is deliberately entered so as to bring the members themselves to meetings, and get them to take a lively and personal interest in the society and its conduct, and to prevent a few persons from carrying their personal views by means of lightly and ignorantly given proxies. It is a very valuable co-operative principle, especially where societies are small, as in the Raiffeisen Societies.

In Italy it is generally provided by the articles of societies that members failing to attend a general meeting without reasonable excuse are liable to a small fine.

It will be observed that females are impliedly admissible as members of a society. Nor does the law forbid them to become office-holders or directors.

43. A general meeting must be at once convoked when demanded by one-tenth of the members, or by a smaller fraction if the articles so stipulate: the demand must be made in writing with a statement of the object and reasons of the demand.

Members may require in a similar manner that the matters submitted to decision in a general meeting shall be published. If such demands are not complied with, the court (section 10) may authorize the members who have made the demand to call a general meeting or to publish the required matter. This authorization must be published together with the summons for the meeting or with the publication of the matter.

44. A general meeting must be summoned in the mode prescribed by the articles with at least one week's notice.

The summons must invariably state the object of the meeting. No subject can be voted upon at a meeting if it has not been announced in the mode provided by the articles, or under section 43, at least three days before the meeting, save only matters relating to the chairmanship of the meeting and proposals to call an extraordinary general meeting.

Such previous notification is not necessary either for the mere formulating of proposals to be laid before a meeting or for debates without actual voting.

45. The resolutions of a general meeting must be entered in a minute book, and must be communicated to each member and to the State authorities.*

46. The general meeting must pass resolutions regarding the balance sheet, and fix the amount of profit or loss to be distributed among the members.

The balance sheet and the statement of profit and loss must be placed at the disposal of members or otherwise brought to their notice, at least one week before the meeting, either in the society's office or some other convenient place. Every member is entitled to demand, at his own cost, a copy of the balance sheet and of the (abstract) account of the year.

47. The general meeting must fix—

(*a*) the total amount which the borrowings of the society and the deposits made with it by savings banks must not exceed ;†

(*b*) the maximum amount to be granted to members by way of credit.

48. When the articles require payment of shares by instalment without settling the amount and date of them, the general meeting alone can decide these points.

49. A resolution of a general meeting may, by means of a plaint, be impeached as invalid by reason of its being contrary to law or to the articles. No plaint can be filed within one month of the date of the resolution. Not merely the directors, but any member present at the meeting, may thus impeach a resolution, but only if he has declared his dissent from the resolution in the minutes of the meeting. Any member who was not present may also impeach a resolution, but only on the ground of irregularity in calling the general meeting or in notifying the subject of the resolution.

The plaint must be filed against the society. This will be represented by the directorate, unless this latter body is itself the plaintiff, and by the council of supervision. The court having jurisdiction over the district in which the society is located can alone receive such plaint. The hearing cannot take place till after the period mentioned in the preceding paragraph.

The filing of the plaint and the date of hearing must at once be notified by the directorate in the customary official journals.

If the resolution is declared invalid by a judgment, such judgment is binding upon all members though not parties.‡ The judgment is to be transmitted by the directors to the court § (section 10) for entry on the register of societies.

50. Plaintiffs who file a suit maliciously and without due cause are responsible to the society for any damage caused by their action.

Chapter IV.—Examination and Audit.

51. The organization of every society and its management in every branch must be submitted at least once in two years to the examination of a competent auditor not belonging to the society.

52. When societies belong to a union, the latter will, if it complies with the following conditions, be granted the right of appointing the auditor.

53. The union must have, as a distinct object, the inspection of the societies which belong to it, and may also otherwise watch over those of their interests mentioned in section 1, especially the maintenance of mutual relations between the societies.||

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* The words 'State authorities' is defined in section 171 *infra*.

† Under the word 'borrowing' is included deposits other than those of savings banks, for these form usually a large portion of the working capital derived *ab extra*.

The provision as to savings banks' deposits discloses a source whence many credit societies draw much of their funds: savings banks and popular banks mutually support each other. A savings bank, though not well adapted for ordinary credit banking business, can lend lump sums to societies which make credit their business.

Every society fixes a maximum for its loans: not the total amount to be lent, for that cannot be foreseen, but the total which may be advanced to individual members. This prevents influential individuals from obtaining an undue share of the funds.

‡ This seems obvious, since the plaint is to be filed 'against the society,' which necessarily includes all members.

§ The 'court' is not necessarily the court which tries the case. By section 10, the court which keeps the registers of societies is the court which keeps the commercial register. This is usually, if not always, a court in a town, and the court which has cognizance of these plaints is the court which has general jurisdiction over the district and is probably, therefore, not the ordinary Town or Commercial Court.

|| Section 1 describes the economic objects to which co-operative societies devote themselves, *e.g.*, credit, production, distribution of raw and manufactured materials, the purchase of agricultural, &c., implements, the acquisition of houses, &c.

54. The objects of the union must be entered in its articles, which must show that the union is likely to be able to carry out the business of audit. The local area of the union, the number of societies which it will receive as members, must be mentioned, as also stipulations regarding the selection and appointment of auditors, the nature and limits of their audit, the formation, place of business, and powers and duties of the directorate and other organs of the union.

55. The right to appoint auditors is granted by the federal council when the union extends over several federated States; otherwise by the central authority of the State. Any modifications of the articles of a union must be communicated to the authorities having jurisdiction as mentioned in the preceding sentence.

56. The directors of the union must, every January, send the articles with a certified copy of the Government order granting the right of appointing an auditor, and a statement of the societies forming the union, to the courts within the jurisdiction of which the several societies have their place of office, and also to the chief authorities who have jurisdiction over the place of office of the union.*

57. The general meeting of the union must be held solely within the limits of the union. Notice of such meetings, with a copy of the programme, must be sent at least a week in advance to the chief authorities both of the district in which the union holds office and of that in which the meeting is to be held. The latter authority has the right of sending a representative to the meeting.

58. The right of appointing auditors may be withdrawn from the union—

(1) if it is guilty of acts contrary to the law by which the common weal is endangered, or if it follows other objects than those mentioned in section 53;

(2) if the union is unable to fulfil the duty of audit, such withdrawal is pronounced, after hearing the officers of the union, by the authority which granted the concession, which should at once inform the courts mentioned in section 56, of the withdraw al.

59. When societies do not belong to a union, the auditor is appointed by the court (*see* note in section 56); in such case the society may demand the nomination of the auditor. The appointment is made after the chief authority of the district has given his opinion regarding the person proposed; if such authority concurs with the society, such person should be appointed.

60. (Contains rules regarding the fees payable by each society to the auditor.)

61. The directors must allow the auditor the inspection of all the books and papers of the society, its cash, its negotiable paper, and its goods in stock. The committee of supervision should be invited to assist in this audit.

The directors must send, for entry on the register of societies, a certificate by the auditor that the audit has taken place, and must forward the report for discussion and resolution at the next general meeting, at which the committee of supervision must give any explanation on the results found. The auditor appointed by a union must send to the directors of the union a copy of his report.

62. The Chancellor of the Empire is authorized to issue general orders for the drawing up of the audit reports.

Chapter V.—Retirement of Members.

63. Every member is entitled by notice of withdrawal to announce his retirement from a society. Such notice can only be given at the close of a business year, in writing, and at least three months in advance. The articles may fix a period longer than three months, but not exceeding two years.

Any agreement contrary to the above provisions is invalid.

64. When any creditor of a member shall, during six previous months, have failed in his efforts to execute process against the goods of such member, and shall have obtained the attachment and assignment to himself of such sum as would be due to such member upon the liquidation of the society, he may, for the satisfaction of his claim, exercise, in place of such member, the right to claim the retirement of the member.

To the withdrawal notice should be added a certified copy of the debt bond and of the documents relating to the unsuccessful attempt to execute the process.

† 65. If, by the articles, the members of a society are bound to reside within the limits of a specified area [section 8 (*b*)], any member ceasing to reside therein may, by a written notice at the end of the business year, announce his withdrawal from the society. Similarly, the society may notify in writing to such member, that he must retire at the end of the year.

The transfer of domicile should be certified by some official authority.

66. A member may be excluded from a society at the end of a business year upon loss of his civil rights, and also upon his taking part ‡ as member in another society having a similar object in the same locality.

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* The courts are those which keep the register of societies, and are the same as those which keep the commercial registers, *i.e.*, usually the Commercial courts. These Commercial Courts and Commercial registers are peculiar to Continental Europe. The 'chief authorities' mentioned in this section and in sections 57 and 59 are designated by the Government: in this presidency it would probably be the Collector of the district.

† This section specially relates to the Raiffeisen Societies, which very strictly limit their area of operations usually to a village, and require all their members to reside within those limits. The reasons are fully explained in Vol. I, *q.v.* The official authority attesting a transfer might in India be the village headman and karnam.

‡ The provision is due to the fact that a member pledges his whole property for the engagements of the society. This pledge may amount to nothing if the member joins another society to which also his property is equally pledged, and which may liquidate at any moment. Moreover he may raise loans to the full value of his security in each society and thus possibly defraud one or the other.

The exclusion of a member from a credit and loan society may take place by reason of his joining another similar society, even when that society does not carry on business in the same locality.

The articles may also lay down other reasons for the exclusion of members. The resolution dismissing a member must at once be communicated to him by the directors by registered letter. From the moment this letter is despatched, the member cannot take part in a general meeting or be appointed a director or member of the committee of supervision.

67. The directors must notify a retirement to the court to be entered in the list of members, at least within six weeks before the end of the business year with a written certificate that the notice of withdrawal was given within due time. Where the retirement is due to the action of a creditor (section 64), the notification must be accompanied by the documents mentioned in section 64 (*b*) and a certified copy of the order of attachment and assignment. Similarly in the case of retirement under section 65, the certificate to the court must be accompanied by the written notice of the member, or a copy of that issued by the society, and in case of expulsion, a copy of the resolution. These must be sent within the time mentioned in the preceding paragraph.

68. It is necessary to enter at once on the members' roll the reason for the retirement of the member and the year. Following upon such entry the member quits the society at the end of the year mentioned, but if such entry is only made in a later year, then at the end of that year.

69. On the application of a member, or of a creditor under section 64, the court must at once enter on the list of members the reason for the retirement and the year from which it has effect. If the directorate accepts or is conclusively bound to accept the withdrawal, a note should be made of the fact in sending the notification to the court, in which case membership ceases from the day of the entry of such notification on the list.

70. The court must inform the directorate, the member, and, under section 64, the creditor, of the acceptance or rejection of the proposed retirement. All documents sent to the court with reference to such retirement will be filed by the court.

71. The account of a retiring member with the society is settled according to the situation at the moment of retirement, the balance sheet being taken as the basis of settlement.

The share value due to a retiring member must be paid over within six months, but he has no claim upon the reserve or other property of the society.

Should the society's assets, reserve included, be insufficient to cover its debts, a retiring member will have to pay his quota of the deficit.

72. No demand can be made by a member for the repayment to him of his share value after two years from the date of his retirement.

73. If the society is dissolved within six months from the date of a member's retirement, such retirement is considered as null and void.*

74. A member may, at any time by written agreement, transfer his share to another person and quit the society without settlement of accounts, provided that the transferee becomes a member in his place; if he is already a member, his interest in the society must, with the new addition, not exceed the prescribed share maximum.† But the articles of a society may prescribe other conditions, or forbid any such transfers.

The directors must communicate such transfers at once to the court (section 10), and, if the transferee is already a member, must also send a certificate that the transferee's pecuniary interest does not exceed the share maximum.

The transfer should be effected in the list of members by the transferring member, from which date the transfer has effect. The conditions of sections 15, 69 and 70 are applicable.

If the society fails within six months from the date of transfer, and the transferee is unable to make good any supplementary payments, the transferring member will have to supply such deficit with regard to such supplementary payments as he would have been called upon, as member, to make.

75. A deceased member is considered to have quitted the society at the close of the business year in which he died. Up to that time the heir of the deceased takes upon him the vacated membership. In the case of several heirs, the right of vote is exercised by a power of attorney.

The directors must, without delay, send notice of the decease of a member to the court (section 10) for entry on the list of members.

The conditions of sections 68, 69 and 73 are applicable.

Chapter VI.—Dissolution and Liquidation.‡

76. The society may be dissolved at any time by a resolution of the general meeting, such resolution being passed by a majority of three-fourths of those present. The articles of a society may fix further conditions in addition to that of the three-fourths majority.

Such dissolution must at once be notified (to the court, section 10) for entry on the register of societies.

77. In the case of a terminating society, its dissolution takes effect at the end of the term.

Section 76, paragraph 2 applies in this case also.

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* This provision is evidently intended to prevent members from ruining a society by withdrawal or from evading their share of responsibility for the condition of a society.

† *I.e.*, the maximum which may be held by any one member, *see* sections 128 and 132.

‡ For proceedings in case of bankruptcy, *see* Chapter VII.

78. In case the number of members falls below seven, the court (section 10) must, on the request of the society, or if such request be not made within six months, then by executive order after the directors have been heard, pronounce the dissolution of the society.

The order must be at once communicated to the society.

A regular suit to annul such order lies at once. The dissolution will have effect from the date of confirmation of the order.

79. When a society is guilty of illegal acts or omissions which endanger the common weal, or when it follows objects other than those mentioned in section 1, it may be dissolved unless a formal demand for indemnity has been made. (Prescribes the method and authorities for procuring dissolution in such cases.)

The authority pronouncing dissolution must report the same to the court (section 10).

80. The dissolution of the society must be entered without delay by the court on its register of societies.

It must, moreover, be published by the directors in three separate issues of the journals in which the society publishes its notices. Such publication must also invite creditors to send in their claims.

81. Liquidation is effected by the directors if the articles or a special resolution of a general meeting do not entrust it to other persons. There must be at least two liquidators. If so requested either by the committee of supervision or by at least one-tenth of the members, the court (section 10) may nominate the liquidators.

The court may also * suspend liquidators under the same conditions as those on which it appoints them. Liquidators not appointed by the court may be suspended by the general meeting before the expiry of the period for which they have been appointed.

82. The appointment of liquidators must at once be notified for entry on the register of societies, and every change of liquidators as well as the expiry of any of their powers.

Liquidators must, at the same time, give in or duly send in their signatures to the court.

A copy of the papers relating to the appointment of liquidators must accompany the notification and be filed in the court.

83. The liquidators must signify their consent in due form, and will sign for the society. All liquidators should join in the above declaration and signature unless it is otherwise arranged, but at least two should be appointed for the purpose.

The signatures must add the name of the society to indicate that from that date the society is in liquidation.

84. The provisions of section 29 are applicable to the case of liquidators as regards third parties.

85. Till the close of the liquidation, notwithstanding the dissolution of the society, the provisions of the Chapters II and III of the present law are applicable so far as concerns the legal relations of the society with its members, so long as no new legal situation shall arise from the provisions of the present chapter and from the nature of the liquidation.

The legal position held by the society at the time of its dissolution subsists until the complete partition of its assets.

86. The liquidators should close current operations, complete the engagements of the society, call in its debts, and turn all assets into cash. They will represent the society both at law and in business. They may make fresh engagements for the purpose of winding up pending operations.

87. Liquidators have the rights and duties of directors as entered in sections 26, 27, 31 (1), 32, 42 to 45 and 46 (2), and as such are subject to the inspection of the committee of supervision. They must get out a balance sheet immediately after the commencement of liquidation and every year thereafter. The first balance sheet must be published and communicated for entry on the register of societies.

The sale of immovables can only be effected by liquidators in public auction, unless the articles or a resolution of a general meeting decide otherwise.

88. The division of the assets between the members cannot take place till the debts are paid off and quittance given, nor before the expiry of one year from the date when the notice to creditors shall have been published for the third time in journals [section 80 (2)].

The amount of the uncollected debts, as well as that of debts postponed or in dispute, must be set aside (before the division of the assets), as well as that of pending obligations. Liquidators acting contrary to the present provisions are responsible individually and collectively not only to the society, but to the creditors for any resulting damage. The same responsibility attaches to members of the committee of supervision when such infractions have taken place with their knowledge and without objection from them. Nor is such responsibility towards creditors removed by the fact that the infraction is the result of the resolution of a general meeting.

89. (Prescribes the mode of dividing the assets among the members with liberty to enter other methods in the articles).

90. After the close of the liquidation the books and papers of the society are to be given in charge for ten years to one of the long-standing members or to an outsider. Such person is appointed by the court (section 10), in case the articles or a resolution of the general meeting do not provide for this. The court may authorize members and their legal successors as well as the creditors of the society to examine their books and papers.

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* This is general: the court may suspend *any* liquidator upon reference by the committee of supervision or one-tenth of the members.

Chapter VII.—Bankruptcy—Responsibility of Members.

91. Bankruptcy is declared in case of suspension of payment as well as in case of an excess of liabilities (over assets).

After a society is dissolved, it may be declared bankrupt so long as the division of assets has not taken place.

92. As soon as payment is suspended, the directors must propose * the opening of proceedings in bankruptcy. This must also take place when, after a society is dissolved, it is found by the balance sheet that the debts are in excess of the assets

The directors are responsible to the society as laid down in section 32 for any payments made by them after such debt.

But no demand can be made upon them after the lapse of five years.

93. Not only the creditors, but any one of the directors is authorized to propose the opening of proceedings in bankruptcy.

If all the directors do not join in the proposal, such proposal cannot be accepted unless the facts necessary by section 91 are duly proved. The court should hear the other directors according to section 97 (2) and (3) of the Law of Bankruptcy. The proposal cannot be rejected on the ground that the assets do not suffice to pay the expenses of proceedings.

94. The society is *ipso facto* dissolved by the opening of proceedings.

95. The opening of proceedings must be at once entered on the register of societies, but this entry is not published.

96. On the opening of proceedings the court must nominate a committee of the creditors. A meeting of the creditors must then decide whether it shall accept the nominees or demand others. The provisions of section 79 of the Law of Bankruptcy are applicable.

97. A general meeting must be summoned (sections 42 and 44) at once, in order to decide whether the directors and members of the committee of supervision then in office are to be retained or others appointed.

98. If the scheduled creditors are not satisfied by the final division (section 149, Law of Bankruptcy) of the assets available at the opening of proceedings, the members must furnish supplementary payments to be credited to the funds in bankruptcy.

Unless the articles fix another method for such payments, they must be paid in by contributions *per capita*.

Such payments as cannot be collected from particular members are sub-divided among the rest.

Any payments made in excess of the sums due as above must be returned after all creditors have been duly satisfied.

Any member may put in a counter-claim against such supplementary payments, if he has a claim, as creditor in bankruptcy, upon such payments.

99. The trustee in bankruptcy must, as soon as the balance sheet has been deposited in court (Law of Bankruptcy, section 114), calculate the amount requisite as supplementary payments to cover the deficit.

In the list drawn up for such payments, all members must be entered by name and the demand divided among them. The amount to be contributed must, however, be so calculated that, when allowance is made for the inability of some members to pay, the net proceeds shall cover the demand.

The account must be sent to the Bankruptcy Court with a request to declare it binding. If the register of societies is not kept by the Bankruptcy Court, a certified copy of the articles and of the list of members must be added.

100. For its decision regarding the account, the court will fix a date not more than two weeks in advance. This date must be officially published, and a special summons must be sent to each member entered in the account.

The account itself must be deposited in court at least three days before such date for the inspection of those concerned. This fact should be mentioned in the published notice and in the summons.

101. During this period the directors and the committee of supervision as well as the trustee in bankruptcy and the committee of creditors should be heard, as also any other persons interested if they have any objections to urge.

The court will then give its decision, modify the account where necessary or order any modification, and declare it binding. The decision must be published at once or within a week, and, with the account, must be deposited, for the inspection of those concerned, in the court. No appeal lies against this decision.

102. After the account has been confirmed, the trustee must at once collect the contributions from the members. The execution of the demand against a member is carried out according to the Law of Civil Procedure by service of a public copy of the decision with an extract from the account.

103. The collections must be deposited in such place as may be indicated by the committee of creditors (Law of Bankruptcy, section 120).

104. Every member is authorized to bring a suit against the account after its confirmation. The suit must be filed against the trustee in bankruptcy. It only lies if filed within one month from the date of publication of the decision, and if the plaintiff has declared his objection at the hearing (section 100), or if he has been prevented from so declaring it by no fault of his own. Judgment in such suit has the force of law, and affects all members who are bound to make the above contributions.

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* *See* section 142 for the penalty for neglect to make this proposal.

105. The suit must be filed only in the court which confirmed the account. The hearing cannot take place till after the above period of one month has elapsed. Several suits against the account may be heard and decided together.

106. Should the collections on the account prove insufficient by reason of the inability of any members to contribute their quota, or should the account require modification either by reason of a judgment or otherwise, the trustee must frame a revised account, for which the provisions of sections 99 to 105 are applicable.

If necessary the account may be framed *de novo*.

107. As soon as the final distribution is begun (Law of Bankruptcy, section 149), the trustee must calculate how much, under section 98, members may have to pay as supplementary contributions in addition to or in modification of the entries in the account as compared with the actual contributions.

Such account is subject to the provisions of sections 99 to 102, 104 and 106, but in such wise as not to include contributions from those whose inability to contribute has already been proved.

108. (Omitted.)

109. (Omitted.)

110. The directors are bound to assist the trustee in the duties imposed on him by sections 99 (1), 102 (1), 106 and 107.

111. Such provisions of the present chapter as apply to directors apply also to liquidators.

Chapter VIII.—Special Provisions.

(A) FOR SOCIETIES OF UNLIMITED LIABILITY.

112. In societies of unlimited liability, a member can only hold one share.*

113. The agreement signed at entry by the member (section 15) must expressly state that the member is individually responsible in all his property for the engagements of the society, both towards the society and directly † towards its creditors so far as the law provides.

114. If the articles forbid the distribution of profits (section 20), sections 63 to 75 are to be read in such wise that, as regards the retirement of a member, the "quarter" shall take the place of the "business year," that the notice of retirement must be given in at least six weeks before the end of the quarter, and that the transmission of papers to the court by the directors (section 67) must take place at least three weeks before the end of the same quarter.

In case of withdrawal a settlement must be made. The number of members withdrawing in a quarter must be published.

115. Should it be found that the society's assets, including the reserve and the outstandings, do not cover the debts, the directors are bound to call a general meeting to consider whether the society should be dissolved.

Should dissolution be decided upon, a decision on the point ‡ mentioned in section 97 should at the same time be taken.

116. Should a society become bankrupt, not only is the society, but all the members are responsible individually and collectively in all their property, towards the creditors, for any deficiency found at the final distribution (Law of Bankruptcy, section 149) in regard to duly scheduled debts.

After the expiry of the three months, dating from the confirmation of the account of supplementary payments, the creditors may, if their dues have not been satisfied, take steps against the members individually, nor can such members oppose the claim.

Nor can debts duly scheduled, which have not been expressly objected to by the directors or liquidators during the period of examination of debts, be contested by the members against whom the creditors take steps as in paragraph 2.§

A regular judgment in a suit heard during the process of examination of debts, in the matter of a debt contested by the directors or liquidators, is binding on all the members.

But a debt under objection is not binding upon members till it has been finally admitted on the schedule.

117. The right of action of creditors against individual members ceases at the expiry of two years from the period mentioned in section 116 (*b*), if no shorter period of limitation is prescribed by any law according to the nature of the debt.

Such period of limitation in favour of the member is suspended during any legal proceedings taken by or against the society, but not by any legal proceedings taken by or against another member.

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* In these co-operative societies, the share is primarily a means (*a*) of compelling thrift, (*b*) of providing the guarantee of the member which, in these unlimited societies, extends to the whole of his property and of thereby obtaining credit: it is not intended, except secondarily, as a means of furnishing funds directly, still less as an investment by the members as is the case in an ordinary joint stock company; hence the present limitation; the holding of a single share renders the holder responsible in all his property, and the holding of other shares would therefore not increase the guarantee offered by him, while it might give him an undue preponderance in the society. The law has no retrospective effect (section 163) in this matter.

† The word "directly" is important here, as it signifies that the creditors have the power of *direct* action against individual members (section 116), and not merely against the society; *see* note on section 2 (v), and on section 121 below.

‡ The retention or otherwise of the directors and members of the committee of supervision then in office.

§ Members are bound by the final list of admitted debts, and cannot contest such debts anew when the creditors proceed against them individually.

Liquidation applies also to minors, * or wards under guardianship, as also to persons who by law have the rights of minors, nor can they obtain a renewal of their expired claims. But they have, in such case, the right of action against their guardians.

118. If members who have been proceeded against under section 116 satisfy the dues of the creditors, they become invested with the rights of such creditors against the society.

119. The provisions of sections 116 to 118 are applicable to such members as have quitted a society (under sections 68 and 74) during the two years immediately preceding the beginning of proceedings in bankruptcy, and who are not otherwise, under section 73, responsible for the society's engagements up to the moment of their withdrawal; but they are applicable in such wise that the claims of creditors against them cannot be levied till the expiry of six months from the date at which the account of supplementary payments (section 107) shall have been confirmed.

In the case of a deceased member whose retirement shall have been registered at the date fixed by section 75 (1), the claim extends to engagements contracted by the society up to the date of such registration unless the heir proves that, at the date of the engagement, the creditor was aware of the death of the member.

(B) SOCIETIES OF LIABILITY UNLIMITED AS REGARDS SUPPLEMENTARY PAYMENTS.

120. The provisions of sections 112 and 115 apply to these societies.

121. The agreement signed by a member (section 15) must expressly state that the member is individually responsible, in the whole of his property, towards the society,† for such supplementary payments as are legally due to satisfy the society's creditors.

122. If, when proceedings in bankruptcy have been opened, scheduled [98 (1)] creditors have not been satisfied within three months after the confirmation of the account of supplementary payments (107), such contributions as may be necessary must be levied as under section 98 from members who have retired during the eighteen months preceding the opening of proceedings in bankruptcy, and who have not yet been subjected, under the operations of section 73 or 74 (1) to supplementary contributions.

123. The trustee must at once frame an account showing the contributions due by retired members.

Such account must be entered up by name, and the contributions must be apportioned amongst them all, unless the inability of particular individuals is known.

The provisions of sections 99 (3), 100 to 102, 104 to 106 and 108 are applicable.

124. The provisions of sections 122 and 123 do not affect the recovery of supplementary contributions rom members remaining in the society.

Should the contributions made by such members satisfy the scheduled [section 98 (1)] creditors, the contributions levied from retired members must be returned to them.

(C) LIMITED SOCIETIES.

125. In limited ‡ societies, the sum for which each member is responsible must not be less than his share value. The amount of the responsibility must be fixed by the articles at the institution of the society. The arrangement and any modification of it must be duly published (sections 12 and 16).

126. For any augmentation of the limitation value, a majority of three-fourths of the members present at a general meeting is necessary. The articles may also establish other conditions.

127. A reduction of the limitation value can only be effected under the conditions applicable to a division of the capital in case of a dissolution [sections 80 (2) and 88 (1) and (3)].

Notice of the resolution for reduction will not be made for entry on the register of societies before the end of the year mentioned in section 88 (1). With the notice must be sent the published copies of the resolution. At the same time the directors must submit a written certificate that the creditors who have not consented to the reduction have been paid up or have obtained due security.

128. The articles may authorize the holding of more than one share by a member, and must fix the maximum number which may be so held.

This condition or any modification of it must be duly published (sections 12 and 16).

129. The responsibility of a member holding more than one share increases in exact proportion to the shares he holds.

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* That is, where minors, &c., are creditors, limitation equally applies to them, and they cannot subsequently plead minority, &c., in view to a renewal of their claim after the limitation period is over.

† The difference between the societies A and B is that in the latter the creditor has no power of proceeding *directly* against a member as he has under section 116. A member is not responsible directly to the creditors as in the A societies (section 113), but only to the society, which is collectively responsible to the creditors, and these latter can only proceed against members through the trustee in bankruptcy who satisfies their dues by levying supplementary contributions. Hence, in section 121, the words "directly towards the creditors" find no place.

It will be seen that both societies are "unlimited" and that they differ not in the extent of the liability of members, but in the procedure to be taken against them. It is undoubtedly a relief to members that they shall not be liable to individual suit for the whole of a debt (leaving them to recover from the society afterwards), but only to their *quota* for each debt or mass of debts (*see* note on section 2 (*v*), (*supra*).

‡ The word "limited" as used in Europe frequently means "limited to a particular sum or value," not necessarily that of the mere shares held by a member as is usually the practice in England and India. It is common, for instance, for the members to be held responsible not only for the value of their shares, but for a similar additional value, or for a half extra, or two or three times such value.

130. A society must not permit a member to take a second* share till he has fully paid up his first share, and similarly for each successive share.

131. A member desirous of subscribing for a new share must give in a signed declaration. This must be sent by the directors to the court (section 10) for entry on the list of members as soon as the application for a new share has been accepted. The directors must, at the same time, certify that the member has fully paid up his previous shares.

A member's property in a new share begins to have effect after the entry is registered according to the preceding clauses.

The conditions of section 5 are in other matters applicable.

132. A transfer of a member's share value to another is only valid if, at the time of transfer, the total share value held by the transferee, together with the amount transferred, does not exceed the maximum permissible. The directors must therefore send to the court (section 10) the certificate required by section 74. In other matters the provisions of section 131 apply.

133. With the balance sheet of each business year should be published, besides the matters recited in section 31 with regard to the number of members, a statement shewing the total amount by which in that year the liabilities have increased or diminished, and the total amount for which the members are jointly responsible at the close of the year.

134. Proceedings in bankruptcy are called for not merely in case of inability to make payments, but in case the debts exceed the assets, should such excess pass one-fourth of the total amount for which the members are responsible. The directors are bound to propose proceedings in bankruptcy when such excess is discovered either by the annual balance sheet or by a balance sheet drawn up during the year. The provisions of section 92 (2) and (3) and section 93 are applicable.

135. Members cannot individually be followed for any sum in excess of that for which they are responsible, whether for any supplementary contributions or by the creditors of the bankrupt society. For other matters the provisions of sections 116 to 119 relative to claims by creditors are applicable.

136. Irrespective of the provisions of section 88, the creditors of a society, if their claims have not been satisfied, may claim compensation from the directors, from the committee of supervision or from the liquidators, if profits or capital shall have been divided contrary to the provisions of sections 19 and 22.

The same is permissible if, after the date on which it is obligatory to propose the opening of proceedings in bankruptcy, money is paid out by way of repayment.

The liability to compensation is not, as regards the creditors, removed by reason of the transaction having been based on a resolution of a general meeting.

(D) TRANSFORMATION OF SOCIETIES.

137. A society of unlimited liability can transform itself into a society of liability unlimited as regards supplementary contributions, only by observing the conditions applicable to the partition of a society's capital in a case of dissolution [sections 80 (2), 88 (1) to (3)].

The same procedure is necessary when societies of unlimited liability of either kind are transformed into limited societies.

The provisions of section 127 (2) are applicable.

138. For the transformation of a society of unlimited liability as regards supplementary contributions, into an ordinary unlimited society, or of a limited society into either class of unlimited society, a majority of three-fourths of the members present at a general meeting is necessary. The articles may also require further conditions.

139. The transformation under sections 137 and 138 is binding on members who have left the society before the registration of the decision in register of societies.

In the case of the transformation of a society unlimited as regards supplementary contributions, the abovementioned members cannot be called upon for the debts of the society if their retirement took place eighteen months before registration of the transformation. In case of the transformation of a limited society, they can only be followed for the sum for which they were responsible when they retired.

Chapter IX.—Penalties.

140. The directors, the members of the committee of supervision, and the liquidators, are punishable with imprisonment and with fine which may extend to 3,000 marks (Rs. 1,500) if they wilfully act † against the interests of the society.

They are, at the same time, liable to lose their civil rights.

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* It must be remembered that the shares in a co-operative society are not investments of capital by a mass of subscribers on whom alike general calls are occasionally made, but are gradually developing shares in a partnership, and are intended to encourage thrift by steady, continuous saving, as well as to produce responsibility. A share is fixed, say, at Rs. 50, and a member—in the Schulze-Delitzsch Societies for example—is obliged to pay this up by continuous, regular, and punctual periodical payments, *e.g.*, 1 rupee per month till all is paid up. Hence, in order that a man may not rashly undertake more than he can pay, or a burden of responsibility for which he is not fitted, he is compelled to show his thrift and prudence by completing each share before taking up another. It must not be forgotten that the shares are not a large proportion of the working capital.

† This section is as draconic as it is vague. No maximum term of imprisonment is stated while the phrase "act contrary to the interests of the society" is extraordinarily lax. Numerous acts may be contrary to the interest of a society, but are yet hardly criminal, except under this stringent provision. However, there is the law, and it sufficiently shows with what strictness the German legislature intends to control by law the working of these societies, and to safeguard the interests of the poor and often ignorant people who form the members of these co-operative societies. In the history of the Madras Nidhis there have been hundreds of cases which would readily fall under this law, though the parties would altogether escape under the Penal Code.

141. The directors, members of the committee of supervision, and the liquidators are liable to imprisonment for one year and to a fine which may extend to 3,000 marks, if they shall have knowingly made false declarations in the notices, advices, and certificates sent to the court (section 10), or if they knowingly make incorrect allegations regarding the situation of the society either in their statements relative to the financial position of the society, to its members, or to the sums for which they are liable, or in their proposals made to the general meeting.

They may, at the same time, be deprived of their civil rights.

In case of extenuating circumstances, a sentence of fine only may be pronounced.

142. (*a*) Directors, members of the committee of supervision and liquidators, when the society has been left more than three months without a committee of supervision, or if the committee of supervision does not contain the number of members necessary for passing resolutions, (*b*) directors and liquidators who, contrary to sections 92, 111 and 134, neglect to propose the opening of proceedings in bankruptcy, are liable to a fine of 600 marks or to three months' imprisonment or to both.

No one is liable to the above penalty if he can prove that the neglect was not due to him.

143. Directors are liable to a fine of 600 marks, if their operations are directed to objects other than those indicated in section 1, or if, in general meetings, they allow or do not prevent the discussion of propositions concerning public matters, the discussion of which falls within the law regarding the right of assembly and association.* The penalty is not leviable from any one who can prove that he is not guilty of such fault.

145. Any one who grants or makes any promise of special advantages to any person, if he will vote in a particular manner at a general meeting, is punishable with a fine which may extend to 3,000 marks or to imprisonment which may extend to one year.

Chapter X.—Miscellaneous.

146. (Treats of the jurisdiction of courts.)

147. (Omitted.)

148. The notifications for entry on the register of societies must be made by all the directors or all the liquidators personally, or on an authenticated form.

Notices and documents sent according to sections 16, 28, 31 (2), 49 (4), 61 (2), 82 and 83 (2) must similarly be entered on the register of societies for each branch.

The results contemplated in sections 13, 16 (4), 29, 84, and 139 come into force upon the entry in the register of societies at the principal place of office.

149. The registration of a new member, of a retirement, of the exclusion, or decrease of a member, the entry of the acquirement of new shares in the list of members, must be communicated by the court (section 10) to the court having jurisdiction over the head-quarters of each branch for the due correction of the list there maintained.

The registration of the dissolution of a society as well as the opening of proceedings in bankruptcy must, at the same time, be entered on the register of societies for each branch.

150. (Omitted.)

151. (Omitted.)

152. The directors must be compelled by the court (section 10) to observe the provisions of sections 8 (2), 14, 16 (3), 28, 30, 59 (2), 61, 76 (2), 127 (2) and 137 (3) under summary penalties which may extend from 20 to 600 marks. In the same way the directors and liquidators must be compelled to observe the provisions of sections 31 (2), 45, 46 (2), 49 (3) and (4), 82, 83 (2), 87 (1) and 148 (2).

The procedure to be observed is that prescribed for the enforcement of notifications ordered by the Code of Commerce.

153. (Repeals previous laws.)

154. Societies registered under the law of 4th July 1868 are placed under the present law.

155. A society must, under penalties to be imposed by the court (sections 10 and 14), add the words "registered society of unlimited (limited) liability" to the designation of the society.

156. † So long as the provisions of section 7 (4), relative to the formation of a reserve, shall not have been entered in the articles of a society, such society must, from the beginning of the business year immediately following the coming into force of this law, allot at least one-tenth of the annual profits to the formation of a reserve.

Sections 157 to 170. (Are of temporary nature and relate to the effect on existing societies of the new law.)

171. The conditions necessary for the application of the provisions of the law relative to the register of societies, and to the communications to be entered therein will be laid down by the Federal Council.

When the State is a confederation, the central authority of such confederation will notify for each confederated State what is the authority intended by the words "State authorities" in section 45 and "Chief Controlling authority" (sections 56, 57, 59 and 79 ‡).

172. The present law comes into force from 1st October 1889.

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* This section is obviously intended to prevent the societies from becoming mere political clubs. The two great difficulties in the way of these societies in Europe are said to be politics and high dividends.

† A very important section practically making a reserve compulsory by ordering a large annual allotment if the articles do not prescribe an allotment. It would be well to make it a first charge on gross profits, and a *minimum* proportion should be prescribed by the articles.

‡ *See* these sections which show that the Government itself keeps a watchful eye over these societies, in addition to the close supervision to be exercised by the court (section 10).

MODEL ARTICLES OF THE SCHULZE-DELITZSCH CREDIT SOCIETIES, CO-OPERATIVE AND UNLIMITED.

[Revised according to the law of 1st May 1889.]

Name, Place of Business, and Objects of the Society.

1. The society shall be called the Schulze-Delitzsch Credit Society unlimited and registered, and shall be located at —————. The object of the society is to provide its members with the funds necessary for trade and agriculture by means of co-operative banking operations.

Working Capital.

2. The working capital comprises—

(1) The own capital of the society formed of the entrance fees, of the subscribed shares, and of such share of the annual profits as may be credited to capital and reserve.
(2) Deposits and other extraneous funds.

Organization and Management.

3. All members share in the work of the society through—

(1) The board of directors (office-bearers).
(2) The committee of supervision.
(3) The general meeting.

The Directors (Office-Bearers).

4. The directorate consists of—

The managing director.
The cashier.
The book-keeper.

These are elected by the general meeting on the nomination of the committee of supervision: the election shall be determined by a majority of votes, which shall be in writing. The term of office shall not exceed three years, and arrangements shall be made to prevent the simultaneous retirement of several members together.

If a candidate does not obtain a clear majority, the committee of supervision shall submit new proposals.

Office-bearers are re-eligible upon expiry of their term of office.

Every office-bearer must be a member.

5. Elections and re-elections of directors must be communicated to the Court* with a copy of the minutes relating to such elections; the elected directors must also send a specimen of their signatures.

6. The directors represent the society both in Court and otherwise and have the powers granted by section 24 and following sections of the law. They sign for the society adding their signatures to the name of the society. The signature of two directors is necessary.

7. The directors have full rights of management save as restricted by these articles or by any specific resolutions or by the necessity for the concurrence of the committee of supervision or of the general meeting.

8. Directors are responsible personally and jointly if they exceed their rights as herein contained and for any loss caused to the society by any neglect of the duties demanded of good men of business: they are specially responsible if they have distributed profits or assets contrary to the provisions of the law.†

9. Directors must keep the affairs of the society in complete order. Especially must they look after the upkeep of the accounts and their abstracts, the compilation of the annual balance sheet, the maintenance of an exact list of members, the custody of the cash, funds, documents and books of the society. They must publish, within six months of the close of the business year, the number of members at the beginning of the year, the number admitted and withdrawn during the year, and the number belonging to the society at the close of the year, and this list must be entered on the register of societies.* All declarations of membership signed by new members, and the notices and declarations required of withdrawing members, in conformity with the law, must be duly communicated to the Court for entry on the register of societies. The directors are also bound to see that the affairs of the society are submitted at least once in every two years to the auditors appointed by the audit authorities, ‡ and that the auditor has full access to every document and account and verifies the cash balance and the securities in hand, and certifies on the registers of societies that he has duly effected his audit.

Should it happen that the assets are insufficient to meet the liabilities, the directors are bound to call a general meeting to decide whether the society should be wound up.

10. Every business matter must be decided by the directors assembled in actual meeting and by a majority of votes; no director can take part in the discussion on any matter in which he is personally interested.

Every resolution is to be duly entered in a minute book and signed by each director. During the hours of business, two directors must always be present at the office, and no business is to be transacted

* *See* section 10 of the law. † *See* sections 19 and 22 of the law. ‡ *See* sections 51 to 62 of the law.

except at such hours. The directors must, at the close of office hours, verify the cash with the cash-book and see to the due securing of all books and papers.

11. Directors must assist the committee of supervision with their opinion when called for, and when in joint sitting (section 39) with the committee, they have the right of vote. In joint sittings the chairman of the committee of supervision or his representative presides.

12. At every ordinary (weekly) sitting of the committee of supervision, the directors must present a statement showing receipts and disbursements of the past week, cash in hand, debts past due and not paid upon, and loans made during the week.

Directors must also transmit to the committee of supervision a similar list at the end of each month, and publish the same quarterly in a public journal, and at the end of each year must prepare the balance sheet, submit it to the committee of supervision and give account of their management to the general meeting.

13. Directors must take special care to see that all prescriptions of the law are obeyed and the necessary notices sent to the Court, &c.; in case of neglect any fines will fall on them personally and not on the society.

14. The specific duties of directors are determined by the directors and the committee of supervision jointly, with the subsequent approval of the general meeting.

15. The managing director supervises the cashier and book-keeper, verifies and safeguards the cash, the securities and the books of the society, conducts the correspondence, enters up the directors' resolutions, and must bring all irregularities or errors, &c., to the notice of the committee of supervision.

16. The cashier is directly responsible for all receipts, keeps the books, prepares all statements and works with the book-keeper in preparing the periodical returns.

17. (Duties of the book-keeper.)

18. The committee of supervision fills up temporarily any permanent vacancy in the directorate and notifies the same to the Court with a copy of the resolution.

19. (Regarding temporary vacancies.)

20. The entire directorate or any member thereof may at any time be removed by a vote of the general meeting, and have no right of indemnification other than that which may have been agreed upon in their contract with the society.

21. The committee of supervision may suspend any or all of the directors temporarily, pending final decision of a general meeting which must be called as soon as possible.

22. Any such suspension or removal must be instantly notified to the Court, together with a copy of the resolution for entry in the register of societies. The directors continuing in office are responsible for such communication.

23. Directors shall receive a salary consisting of a fixed annual payment and of a percentage on profits. Such salary shall be proportionate to their several duties and settled by the general meeting.

Directors must give security proportionate to their respective duties as determined by the general meeting.

Committee of Supervision.

24. The committee of supervision shall be elected by the general meeting by simple majority (detailed rules for election, with resort to the lot in case of difficulty). They must be members of the society.

25. One-third quit office each year, but are re-eligible; retiring members are determined by lot in the first two years, subsequently by seniority.

26. Vacancies before due date are filled at the next general meeting.

27. A minute relating to the first election of the committee must accompany the copy of the articles sent to the Court for entry in the register of societies.

28. The committee elects its chairman and secretary with deputies for temporary vacancies. Resolutions are passed by ordinary majority. In case of equal votes, the motion is considered as lost; but in such case when the matter is connected with an election, it is decided by lot. A majority of the members is necessary for a quorum.

29. The committee must hold its meetings every week in the society's office. Directors when present at such meetings can only vote on matters which, by the present articles, are subject to disposal by the directors and committee jointly: in other cases they can merely give their opinion.

30. Extraordinary meetings are called by the chairman, who must notify the object of such meeting. He is bound to call such meeting forthwith when the directors or one-third of the committee demand such meeting, accompanying the demand by a written statement of the matter for discussion.

31. The minutes of a meeting must be signed by all members of the committee and of the directorate who may be present.

32. Members of committee may not take part in a meeting at which matters in which they are personally interested are discussed.

33. The general meeting may at any time remove all or any of the committee members from duty. For such resolution there must be a three-quarter majority of those present. The motion for such removal shall ordinarily be made only by the directors and committee (jointly), but may also be made by private members, provided that it is made in writing with a statement of reasons and supported by one-tenth of the members.

34. The committee supervises the conduct of business by the directors in every branch, and is entitled for that purpose to inform itself at any time of the conduct of business. It may at any

moment require from the directors a report as to the society's business; it may examine and verify the books, securities, cash and valuables of the society. It may temporarily suspend any director pending decision of a general meeting to be summoned with all speed, and may make provision for temporarily carrying on business.

The committee must assist at the regular audit, and at the next general meeting must submit its own report on the results.

35. The committee must examine the monthly and quarterly statements in such wise as to obtain cognizance of the position of the society, the annual statement and balance sheet and the proposals for the division of profits, and must report thereon to the general meeting before the balance sheet is passed. It must also summon a general meeting when necessary.

36. The procedure to be observed by the committee is settled by the directors and committee jointly and approved by the general meeting.

Members must act as good men of business, and those who neglect their duties will be held personally liable, especially in the matter of dividends which may have been issued contrary to law, unless they shall have protested against such issue.

37. The committee represents the society in contracts made with and in proceedings against the directors.

38. Directors must act with the committee in the following matters:—

(1) In the grant or renewal of credit of every kind.*

(2) In opening and closing business relations with any bank or financial institution in the matter of obtaining credit in such banks.

(3) In the disposal of temporary surplus capital.

(4) In the investment of the reserve.

(5) In the acceptance of funds not expressly provided for in the law (deposits and savings).

39. The following matters must be decided by the directors and the committee in joint † session:—

(1) The appointment, dismissal and remuneration of employés, the nomination and regulation of agents, and the prosecution of employés and agents if necessary.

(2) The concluding of leases and the sale of movables.

(3) The drawing up of statements to be submitted to the general meeting.

(4) The fixing of the rates of interest and commission upon loans granted; the rates to be published for the information of members.

(5) The admission of new members and proposals for the expulsion of members to be decided by the general meeting.

(6) The temporary suspension of employés appointed and dismissed by the general meeting.

(7) The amount of loans to be contracted by the society, the rates of interest payable thereon, &c.; also the interest to be allowed on accounts current.

(8) All matters of general importance connected with savings deposits to be eventually submitted to the general meeting.

(9) The extension or limitation of business in general or of certain classes

(10) The representation of the society at the congresses and meetings of the general and sub-unions.

(11) The hours of business.

(12) The subscription for journals, &c.

(13) The recovery of arrears from defaulters.

The General Meeting.

40. The rights of members to take part in the affairs of the society are exercised in the general meeting. Each member has one vote, which cannot be passed on to a third party.

(*N.B.*—When corporations or other associations are members, they are represented by a single proxy.)

41. The committee of supervision summons the general meeting or, in default, the directorate (usually by notice in a newspaper).

42. An abstract of the subjects for discussion must be published at least three days before the meeting.

43. Ordinary meetings are held—

(1) annually for the disposal of the balance sheet, the declaration of a dividend, the acquittance to be given to directors, &c.;

(2) quarterly for a review of the society's business, for the receipt of complaints, and for the discussion of matters of interest; elections to the directorate and committee of supervision take place in the last quarterly meeting of the year. The balance sheet with statement of profit and loss must be hung up in the office for perusal by members at least eight days before the annual meeting at which it is to be discussed and members must be notified that it is open to their inspection. Every member is entitled to a copy of the balance sheet upon demand and upon payment.

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* In societies where the directors are permitted to grant credit without the consent of the committee of supervision, such right should be limited by the preparation of a list (Italian "castelletto") showing the credit which may be granted to each individual. In that case 38 (1) should be expunged, and in section 39, the following should be inserted:—

"The preparation of a list showing the maximum credit which may be granted to individual members: this list "must be examined at least once in every month and revised according to circumstances."

† *See* foot-note to section 38.

44. Special general meetings may be convoked at any time. The committee of supervision is bound to summon such meeting upon receipt of a demand in writing, with a statement of reasons, signed by the directorate or by one-tenth of the members.

If neither the committee of supervision nor the directorate comply with such request, members may apply to the Court, which will authorize the calling of a meeting with the usual formalities.

45. The list of business is settled by the committee of supervision for ordinary meetings. Subjects proposed by one-tenth of the members shall be entered therein if forwarded in writing in sufficient time for due publication; application may be made to the Court if the demand is not attended to.

46. The chairman of the committee of supervision is the chairman of the general meeting; if it has been convoked by members, such members elect a chairman. But the general meeting by regular resolution shall always be at liberty to choose any member as chairman. The chairman appoints the secretary for the meeting.

47. Ordinary voting is by show of hands: in case of doubt the votes shall be counted by two tellers, and this procedure is compulsory should ten members demand it. It is only for elections and for the expulsion of a member that recourse shall be had to written votes.

48. The decisions of a duly constituted meeting bind the society.

A three-quarter majority is required—

(1) for any modification of or addition to the articles,
(2) for changing the objects of business,
(3) for increasing the share values,
(4) for the re-election of members of the committee of supervision,
(5) for the liquidation of the society.

Moreover it is necessary for the validity of items (1), (2) and (5) that at least one-third of all members shall be present at the meeting. If such proportion is not present a second meeting is to be called after at least eight days and within four weeks; the decisions of such meeting shall be valid without regard to the number of members present.

49. Minutes of every meeting are to be duly drawn up containing the points discussed, the resolutions thereon, and the result of votes: these are to be entered in a permanent register and signed on each occasion by the chairman, by every director and member of the committee of supervision present, by the secretary of the meeting, and by at least three other members. The committee of supervision is entrusted with the custody of the register and of the notices calling the meetings.

50. The following, in addition to other subjects elsewhere mentioned, must be submitted to the decision of a general meeting:—

(1) Alteration of and addition to the articles; change of the objects of the society; dissolution and liquidation; recoupment of the society's losses from the share values of members; the acquisition, sale and charges of landed property; the election and remuneration of directors and members of the committee of supervision, of the valuation committee (section 77) and of the special committee of audit (section 91); demands to sue or prosecute any members of the directorate or of the committee of supervision; the dismissal from office of directors or committee members; specific complaints against the conduct of business and against the decisions of directors and committee members; the approval of the business regulations drawn up by the directors and committee; the fixing of a maximum (*a*) for the aggregate of deposits, savings deposits or other loan funds to be received by the society, (*b*) for loans granted at one time to any individual member; the opening of business in accounts current; the division of profits at the end of the year, and the acquittance to be given to directors for their conduct of business; the expulsion of members; the joining or quitting the general union or a sub-union of societies.

MEMBERS AND THEIR POSITION.

51. Every one is admissible as member who is capable of free contract and who is not already a member of another similar society.

Candidates are accepted by the directors and committee upon a written declaration of unconditional adherence to the statutes of the society. Such declaration is forwarded by the directors to the Court for entry of the candidate's name on the list of members; on such entry he becomes a member. The declaration must contain the express statement that the member is personally responsible for the engagements of the society both towards itself and towards its creditors in all his property and in conformity with the law. It must be executed in duplicate, one copy being sent to the Court and the other retained by the society.

A candidate rejected by the directors and committee may appeal to the general meeting.

52. Every member is entitled to withdraw on giving notice in writing, to take effect at the close of the business year; it must be given in four months previously.

53. A member may be expelled—

(1) if he loses his civil rights;
(2) if he fails to fulfil his obligations in the matter of dues exceeding three months in arrears especially if two notices have been disregarded;
(3) if he becomes a member of another similar society; *
(4) if it is found necessary to proceed against him in Court for a debt, or if he has occasioned loss to the society or to a surety;
(5) if he becomes bankrupt.

* The reason for this is that the societies of this class are 'unlimited'; consequently, if a member of one society joint another also, the former society may lose, by the failure of the latter society the whole value of the member's security.

Expulsion is by decree of the general meeting. An expelled member must be informed forthwith by the directors by registered letter, from the date of which he ceases to have the right to take part in the society's operations.

54. The directors must forward to the Court the withdrawal notice of a member at least six weeks before the close of the year. In the case of expulsion, a copy of the decision must similarly be sent to the Court.

55. The withdrawal or exclusion has effect on the erasure of his name from the list of members in register of the Court.

56. Death is considered as a withdrawal from the end of the business year in which death took place: up to that date the heirs of the deceased exercise his rights.

57. The directors must inform the Court of the death of a member as soon as they are notified of it.

58. The share value of a retiring or deceased member must be paid over within six months subsequently; but he shall have no claim upon the reserve or any other asset of the society.

If, upon the liquidation of the society, its assets, including reserve and all debts due to it, are insufficient to cover its liabilities, a retired member must pay his share of the deficit, * and withdrawal is null and void if the society liquidates within six months of withdrawal.

59. A member cannot withdraw by transfer of his membership.

60. Members are entitled—

(1) to vote at general meetings and to move resolutions thereat (40 and 45);
(2) to summon general meetings (44);
(3) to avail themselves of all the arrangements made by the society to attain the object of its operations;
(4) to demand a share of the profits in conformity with article 89 and following articles.

61. *Per contra* every member is obliged—

(1) to subscribe to the society as per articles;
(2) to pay on admission the entrance fee (66);
(3) not to act against the present articles or against the decisions and interest of the society;
(4) to answer with all his property for the engagements of the society in conformity with the law for societies of unlimited liability.

Shares.

62. Each share is fixed at . . . . marks (shillings); such share may be paid up in one sum on entrance or by successive instalments of at least . . . . pfennigs (half farthings) per month.

63. All profits due upon such share shall, till it is fully paid up, be credited to such share.

64. Each member will receive a pass-book in which, at the end of the year, will be entered by the directors all payments made by the member on his share, all profits accruing, and all deductions due thereon.

The payments made by a memoer on his share, and the profits accruing thereon, form his share of the society's assets, but will not be paid over to him in whole or in part so long as he is a member, nor will it be accepted as a pledge. No member can be excused payment of any sum due upon his share.

Reserve.

65. The reserve is formed to cover any losses which cannot be met out of the transactions of the year.

It is formed from entrance fees and from a share of the net profits (article 94), and must accumulate till it reaches at least 15 per cent. of the total assets of the society and must be kept constantly full.

66. The entrance fee may vary from time to time.

67. The widow or heir of a member will be relieved from the entrance fee should she or he seek and obtain admission as member within six months of the deceased member's death.

68. The whole reserve must be retained intact until dissolution of the society: no withdrawing member has any claim over it.

Operations.

69. The society will borrow according to and on the security of debts due to it and against the deposit of savings banks' pass-books; it will enter into business relations with banks and, if necessary, open accounts with them. It will do business with other societies especially with the object of providing a common fund.

It will grant term loans to members, discount their bills and open ordinary accounts current or cash credits with them. It will transact business for its members on commission.

The society cannot acquire immovable property except for its office or temporarily in guarantee for a doubtful debt.

It will not buy public stock or other securities except for the investment of its reserve or for the temporary utilization of surplus cash.

All speculative purchase of paper is forbidden.

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* *See* section 72 of the law, which limits this responsibility to two years after withdrawal.

70. The development, limitation and conduct of business will be regulated by the directors and committee jointly. They will, when necessary, submit their business regulations for the confirmation of the general meeting. They will fix, according to the money market and the needs of the society, the rate of interest upon deposits as well as the interest and commission payable upon loans granted.

71. *Loans.*—Demands for loans are examined by the directors and finally decided upon by the committee; the reason for any decision need not be published.

72. Loans are only granted to members and only in proportion to their solvency or upon good collateral security.

73. Collateral security may be either—

(1) one or more sureties;
(2) the deposit or assignment of mortgages;
(3) the deposit of good public securities quoted on the exchange.

No loan will be made direct upon mortgage, but in case of a doubtful debt such security may be accepted in default of any other security. For a cash credit a mortgage may be accepted as security.

74. (Omitted).

75. A loan may be granted up to 80 per cent. of the value of a mortgage pledged or assigned.

Advances upon public securities and other paper may be granted up to 80 per cent. of their market quotation. In case of any fall in the market during the pendency of the loan, the borrower must give additional security or make an additional in-payment.

76. Directors in office cannot obtain any loan or use the funds of the society for their own advantage on pain of immediate loss of office.

77. Members of the committee of supervision cannot, while in office, obtain loans except upon good securities and for an amount the maximum of which shall be fixed by a special committee of three members appointed each year by the general meeting.

78. Directors and committee members will not be accepted as sureties while in office.

79. A member may obtain at the same time several loans upon proper securities and within the limits of his solvency.

80. *Deposits.*—Deposits will not be accepted for less than . . . . marks at a time, and for less than three months certain.

The rate of interest will be fixed from time to time by the directors and committee according to the money market, the needs of the society, and the term of the deposit. Repayment of depoists before the expiry of the term will be allowed only upon deduction of a commission to be fixed by the directorate and committee.

81. *Savings deposits.*—Savings deposits are accepted in the savings branch in sums of from one mark to . . . . marks, receipts being given by the directors in the pass-book of the depositor.

The terms of such deposits, rate of interest and conditions of repayment will be fixed by the directors and committee, subject to confirmation by the general meeting.

82. *Loans.*—Loans of fixed term will be made to members against bills accepted by them for . . . . months at least and . . . . months at most.

83. The date of repayment may be postponed once or oftener: each renewal shall be for . . . . months at most, and only on such conditions as shall prevent the loan from becoming a permanent investment of funds.

When the collateral security is a surety, the renewal must have the consent of such surety.

A renewal may be refused at any time without reason assigned, or it may be granted only upon payment of an instalment on account. If the money market is fluctuating, no renewal should be granted without payment of an instalment. Loans may be repaid at any moment in whole or in part.

84. *Discounts.*—The society will discount bills of exchange presented to it by a member if payable at a fixed date and not more than . . . . months échéance, and if bearing at least two good signatures. Interest shall be calculated by fortnightly periods, and no refund will be made should the bill be met before due date.

85. *Accounts current and cash credits.*—The society will open accounts current with members bearing interest either ordinary or as cash credits.

Accounts will be made up every six months. On the opening of an account, the society will reserve the right of closing it at any time. On the closing of an account, any sum at credit of the member must be withdrawn within fourteen days, after which no interest will be allowed and any amount at his debt must be repaid within four weeks. Cash credits must be duly secured by proper guarantees.

Accounts, Profits and Dividends.

86. The business year shall correspond with the calendar year. Immediately after its close—

(1) the committee shall proceed to examine the cash, documents and securities;
(2) the directors shall make up the books.

87. The directors must send the statement of accounts for the year to the committee by the end of March at latest: in case of default, the committee may get such statement prepared by other persons at the cost of the directors.

88. The statement must comprise—

(1) an abstract of all the receipts and disbursements of the year under the several heads of account;
(2) a special statement of profit and loss;
(3) the balance sheet showing assets and liabilities at the close of the year.

89. In the balance sheet must be shown as liabilities the debts, the reserve, and the sums due to members; amongst the assets will be shown the value of all movable and immovable property less allowance for depreciation and wear and tear, cash in hand, public securities at the minimum current value, the debts due to the society in its several branches; doubtful assets must be shown only at their probable value, irrecoverable dues being altogether struck out.

The balance sheet must also show the interest account drawn up as follows:—All interest due by the society accruing during the year, though not payable till next year, together with any interest due to the society and received in advance during the year, shall be placed on one side: on the other all interest due to the society accruing during the year though not payable till next year.

The excess of the assets over liabilities obtained as above is the net profit for the year.

90. The audit of the accounts is undertaken by the committee, for which purpose it must use the books, documents, and inventory mentioned in article 86 *supra*. It may call in the aid of competent persons to be remunerated according to agreement.

91. The committee's audit report must be submitted to the next ordinary general meeting, which will decide whether to accept the report.

In case of doubt as to the accuracy of the accounts or of the audit, the general meeting may appoint a special committee of three members to make a special audit: such committee shall have all the powers of the committee of supervision as contained in articles 34 and 35 *supra*. The meeting may proceed to such appointment, notwithstanding that no previous proposal to that effect may have appeared on the agenda for the meeting.

92. The disposal of the net profits is determined by the general meeting. Such profits, in so far as they are not necessarily credited to the reserve or otherwise necessarily employed, may be divided among the members in proportion to their shares in the society until such shares are fully paid up, or may be used to recoup any previous loss upon a debt due to the society.

93. In calculating dividends on shares, fractions of marks in the shares shall not be taken into consideration, and only such sums as had been paid up on the shares prior to the beginning of the year in which the profits accrued shall bear interest.

94. Until the reserve shall have attained the amount fixed in article 65 *supra*, at least 15 per cent. of the net profits shall be credited to such reserve before declaring any dividend to members. Should such reserve have been reduced below the normal by losses, a similar percentage shall be credited to it.

Liquidation.

95. The society may be dissolved—

(1) by decision of the general meeting as per article 38;
(2) upon a declaration of its insolvency;
(3) by decree of Court when the number of members falls below seven;
(4) by order of the authorities mentioned in section 79 of the law (for alleged acts or omissions which are contrary to the general welfare, or for undertaking operations other than those permitted in the law of co-operative societies).

96. Insolvency will follow suspension of payments, or in case of liquidation should liabilities exceed assets.

Not only creditors but also directors may propose a motion of insolvency.

97. Members are jointly and individually responsible in the whole of their property to the creditors of the society for any losses sustained by such creditors and not satisfied by the distribution of the assets of the society.

But the creditors of a society have no remedy against individual members till after three months from the date on which the society shall have proceeded to levy an additional *pro ratâ* assessment from the members, and even then only for claims already admitted but not satisfied.

Members who may have withdrawn from the society within the two years preceding the commencement of proceedings are only liable to the creditors in bankruptcy for admitted liabilities contracted prior to the withdrawal of such members, and only after six months from the date on which the society shall have proceeded to levy any additional *pro ratâ* assessment from members.

98. On the dissolution of a society, its liquidation is to be effected, except in cases of bankruptcy, according to section 81 *et seqq.* of the law. Liquidation shall be carried out by the directors unless the general meeting appoints other liquidators.

99. Immediately after the commencement of liquidation and each subsequent year, a balance sheet must be prepared by the liquidators (with the precautions to be observed as in ordinary balance sheets). The first of such balance sheets must be published and sent to the registering office.

100. Should the assets not cover the liabilities, the reserve must be drawn upon; if this is insufficient recourse must be had to the share capital of the members. Should the deposit not absorb the whole of such share capital, the required amount must be obtained by a *pro ratâ* levy upon the several shares. No member has any right to proceed against any other member merely by reason that the amount which the former has lost is greater than that lost by the latter, provided that the latter has paid his dues according to article 62.

101. If (in case of ordinary dissolution), after paying up all debts and the dues to members, there shall remain any surplus, it shall be distributed as follows: (1) the dividends due for the last business year; (2) a division *per capita*, provided that this latter shall not take place till one full year from the date on which notice to creditors shall have been published for the third time.

102. In the case of bankruptcy, should any surplus remain after creditors are satisfied, it shall be distributed as follows: (1) any assessment made upon the share capital of members shall be replaced; (2) the remainder may be granted as dividend.

103. If, after the exhaustion of the reserve and of the share capital, the balance sheet shows a further deficit, the liquidators shall propose that all further payments be effected as proceedings in bankruptcy.

104—106 relate to the mode of issuing notices and other publications and to the selection of a newspaper in which they shall be published.

MODEL ARTICLES—RAIFFEISEN CREDIT UNION.*

Chapter I.—Constitution and Objects.

1. The undersigned have formed a loan society under the name of Society, registered and unlimited. †

Its place of business is and its area of operations is limited as follows :—

2. The primary object of the society is to supply its members with the capital necessary for the carrying on of their business or of their household by means of loans at interest. Such capital will be provided by means of the joint guarantee of the members. To assist in this object a savings bank will be attached to the office.

The society will also pursue the objects mentioned in items 2 to 6 of section 1 of the co-operative law of 1st May 1889. ‡

Chapter II.—Members, their Rights and Duties.

3. Members may be of either sex but must be residents of the area above-mentioned, not dependent upon others (*e.g.*, minors, &c.), possessed of full civil rights, and not members § of any other loan society.

The admission of new members must be consented to by the directors.

Appeal against rejection lies to the committee of supervision, the decision of which is final. The status of member follows from entry on the register of societies.

4. Membership ceases—

(*a*) by retirement,
(*b*) by a removal of residence beyond the area of operation,
(*c*) by expulsion,
(*d*) by death.

The notice of retirement must be given in writing to the directors at least three months before the close of the business year, and its receipt must be acknowledged; at the expiry of such year the member ceases to be a member.

Expulsion is permissible upon non-fulfilment of contract obligations, and may also follow when a member has, for more than six months, been in arrears with his subscriptions. It may also follow the loss by a member of his civil rights or freedom of action, or when a member refuses to retire after joining another similar society; or when a member ceases his subscriptions, or engages in acts contrary to the principles of the society, or, finally, when, after repeated warnings, it has been necessary to sue a member for arrears of his dues upon a loan.

Expulsion is decreed by the directors and takes effect from the end of the business year. But an expelled member ceases to have any rights whether as member of the directorate, of the committee of supervision, or of the general meeting, from the date of despatch by the directors of a registered letter notifying to him the fact of his expulsion.

In case of decease the date of retirement is calculated according to section 75 of the law of 1st May 1889.

The settlement of accounts between the society and a member who has withdrawn or been expelled is based upon the financial situation at the moment of his quitting the society, according to sections 71 and 72 of the law.

5. Members have the right—

(*a*) to take part in and vote at general meetings; this right is lost by members who voluntarily withdraw, from the date of their resignation. Each member has one vote. The right of voting is purely personal. A group of heirs vote by means of a proxy. Only a single member can be represented by each proxy.

Female members may not take part in general meetings, but may be represented by proxies with the right of vote,

(*b*) to apply for loans from the society in accordance with the rules contained in these articles, and up to the limit of the available funds; also to make deposits therein at interest.

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* See Vol. I, pp. 144–154.

† All Raiffeisen societies are 'unlimited' and are generally restricted each in its area of operations to one village (commune, Gemeinde); Raiffeisen recommended 2,000 as the maximum and 400 as the minimum population within such area.

‡ See *supra* page 77.

§ This provision is necessary since each member pledges his whole property for the obligations of the society: hence, if he belonged to any other society such pledge might amount to nothing in case of liquidation. Moreover he might obtain loans from each society to the full value of his credit, and defraud one or the other by declining to repay such loans.

6. Members by their declarations upon admission, bind themselves—

(a) to answer for the debts and engagements of the society; to the society itself by equal contributions, but to third parties with all their property.* The declaration of a member upon admission must contain an express entry to this effect;

(b) to subscribe for a share;

(c) to obey scrupulously the rules of the society and to further its interests under all circumstances.

Chapter III.—Administration.

* * * * *

7. The business of the society is conducted by—

(a) the directors;

(b) the committee of supervision;

(c) the general meeting;

(d) the accountant.

8. Directors shall be . . . in number including the president of the society, and a vice-president. Directors hold office for four years: every two years . . . retire; the first set are chosen by lot.

9. In case of the withdrawal or prolonged disability of a director, the committee of supervision shall appoint a substitute who shall hold office till the next general meeting, at which the vacancy shall be filled by election. Directors thus elected shall hold office only for such period as it would have been held by the directors for whom they are substitutes.

10. The powers of directors are determined by the resolutions of a general meeting as entered upon the minutes. Directors shall notify their election to the court † by forwarding a copy of the resolution of the general meeting; they must also enter a specimen of their signatures in the court, or send such specimen duly authenticated by a court or notary.

Directors sign for the society, adding the name of the society to their own. Except as hereinafter provided the signature is only valid if it is that of the president or vice-president or of at least two directors.

For the repayment in whole or in part of loans, for loans of 75 marks or less, and for deposits in the savings bank attached to the society, the signature of the accountant and of two directors is sufficient.

The society is represented by the directors both judicially and extra-judicially according to the provisions of the law. In law suits and in meetings of unions of societies, any director may represent the society without any special authorization save that of the resolution relative to the matter in issue. The president or vice-president will ordinarily represent the society: in case of their inability, any director may be chosen.

In the transaction of commercial or legal business before a notary or court, and especially in matters before the registrar of mortgages, the directors will determine their course of action and appoint two of their number to carry out their decision.

Per contra directors are bound by any restrictions contained in the present articles, and in any resolutions of the general meeting and of the committee of supervision. In borrowing on behalf of the society they are especially bound to keep within the limits fixed by the general meeting, and in the matter of all suits or contracts, save only suits against members of the society for the recovery of dues, they must previously obtain the assent of the committee of supervision.

They are expressly forbidden to speculate on behalf of the society in any class of paper.

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12. No special notice is required for ordinary meetings of directors. For special meetings, as also for the general meetings, the notices, which must be accompanied by an agenda paper are issued by the managing director The notice for a general meeting must be published at least one week prior to the meeting date.

All published notices must be signed by the managing director and printed in the . . . journal.

13. Directors must meet as often as may be necessary and not less often than once a month regularly, to decide upon requests for loans.

Decisions of the directors will be valid if they shall have been made in a regular meeting by the managing director and at least two other directors.

14. Directors are specially bound—

(a) to obey and carry out all the provisions of these articles and of the law and all valid resolutions and instructions of the general meeting and of the committee of supervision;

(b) to hand over all debt bonds for loans contracted on behalf of the society;

(c) to decide upon the admission or expulsion of members, upon receipts and expenditure, and upon the grant of loans, and to watch over the punctual repayment of loans;

(d) to verify with the managing director the accounts and cash balances, and to invest as promptly and safely as possible, any surplus funds;

(e) to examine before the 1st of April in each year the balance sheet and accounts of the preceding year.

In disposing of applications for loans, the accountant may be called in and his opinion consulted.

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* That is, the society is entitled to collect from its members such contributions as may be necessary to meet its liabilities, these contributions shall be collected from all members in equal parts. But third parties as creditors, are entitled to proceed not only against the society as a corporation, but against each member individually, and such individual member is liable in all his property for such claim; the right of the creditor then devolving upon him, so that he may recover from the society or from other individual members. See sections 2, 116–119 of the law, and the note thereon.

† See sections 10 and 11 of the law.

15. The managing director carries out and supervises the work of the society, especially in the matter—

(*a*) of carrying on correspondence and preserving all papers ;
(*b*) of keeping the prescribed list of members, of issuing all notices and advices required by law, and of publishing the balance sheet of each year within the first six months of the succeeding year ;
(*c*) of carefully verifying the cash and the accounts, of issuing pay orders, of preparing with the accountant the balance sheet, and of maintaining a proper audit. The directors may nominate another director for auditing the accounts, but such audit must nevertheless be supervised by the managing director ;
(*d*) of issuing notices for the meetings of directors and for the general meeting ;
(*e*) of presiding at directors' meetings and of appointing a secretary ;
(*f*) of preparing an annual report on behalf of the directors and of presenting it at the ordinary general meeting in spring.

Committee of Supervision.

16. The committee of supervision consists of . . . members, distributed in such wise over the area of operations, that, together, they possess a complete knowledge of the circumstances of the various residents. The number may be increased by resolution of the general meeting, but must always be divisible by three. They elect annually a chairman and vice-chairman from among their number.

Members are elected to office for three years : each year one-third retire, the retiring members being chosen by lot in the first two years. In case of the death or withdrawal of a committee member the committee will appoint a substitute until the election of a new member at the next general meeting.

17. The committee is bound to watch over the interests of the society in every matter, to take steps that the directors act in accordance with the articles and carry out all resolutions whether of the committee or of the general meeting punctually ; it is at liberty at any moment to examine the accounts and securities of the society and to demand the production of cash in hand. If it is discovered that any director or the board of directors, or the accountant has disobeyed any stipulation of the law, of the articles, or of any resolution, or has in any way acted contrary to the interests of the society, it must take such steps as may be necessary to safeguard the society's interests. It may dismiss any director or the whole board, or the accountant, but in such case, as also in any case when it considers that the interests of the society are endangered, it must at once call a special general meeting and report the matter for orders : the chairman of the committee will assume the place of managing director for the purpose of reporting to the meeting.

In suits by the society against the directors or in contracts made by the society with them, it is the committee which will take action through its chairman or vice-chairman and a senior member of the committee.

18. The committee is specially bound—

(*a*) to issue instructions to the directors and accountant ;
(*b*) to settle the accounts and balance sheet before the 1st May ;
(*c*) to decide what powers should be given to the directors in the matter of suits and in the cases referred to in section 11 of these articles, and to represent the society in suits against directors ;
(*d*) to examine the securities accepted or tendered for loans, once in every three months at their regular meetings ; to decide whether loans should be called in ; and to make or institute a special audit of the business of the society once every year.

Regular minutes must be drawn up of the proceedings in the ordinary meetings of the committee as well as of the proceedings in the special audit above mentioned.

The chairman of the committee is responsible to the society for the due execution of the above duties. If necessary he may obtain the expulsion of negligent members of committee and their replacement by new ones.

19. The committee must meet for the transaction of business at least once in every three months at dates fixed by the general meeting, and whenever called upon by the chairman. At least half of the members of the committee must be present to form a quorum, the chairman or vice-chairman being of the number. The chairman has a casting vote.

General Meeting.

20. The powers of the society are vested in the general meeting which consists of all members of the society and of those who are entitled to vote as per section 5 of these articles. The general meeting must maintain a general supervision over the business of the society, especially over the acts of the committee of supervision, and must take all steps necessary in the interests of the society.

It is the general meeting which passes the balance sheet, and settles the amount of profit and loss falling to the members.

The chairman of the committee of supervision presides at the general meeting unless the latter elects its own chairman.

The general meeting also decides upon the acceptance or rejection of the report relative to the accounts and business of the society. This resolution shall ordinarily be made in the regular spring meeting.

21. The general meeting must assemble at least twice in each year, viz., in spring and autumn and as often as may be judged necessary by the directors, by the committee of supervision, or by at least one-tenth of the members should such number address a written demand to that effect to the

chairman of the committee of supervision with a statement of the object and reasons of the demand. If the chairman neglects to call a general meeting upon such demand, any member of the directorate or committee is authorized to give effect to it, and if all of these neglect to comply with the demand, the abovementioned members themselves may do so, after first obtaining an authorization from the court.

Except in the matters provided for in sections 35 and 36 *infra*, the resolutions of a general meeting are valid whatever the number of members present, provided that the subjects for discussion have been duly entered in the meeting notice.

Subjects not duly notified beforehand in the meeting notice as provided in section 12 *supra*, may not be discussed, save only matters relating to the conduct of the meeting, and proposals to call an extraordinary general meeting.

Except in the cases specified in sections 35 and 36 below, the resolutions of a general meeting are binding on all the members of the society when they have been passed by more than half of the members present at the meeting. The chairman of the meeting has a casting vote.

The general meeting may, upon a regular motion to that effect, depose the managing director from office, and appoint another member in his place.

The general meeting may, by specific resolution, fix the fine payable by such members as fail, without good excuse, to attend general meetings, and any such members shall be bound to pay such fine.

22. The general spring meeting elects by absolute * majority and by open vote, from among the male members:—

(1) the managing director;
(2) his deputy;
(3) the accountant;
(4) the other directors;
(5) the members of the committee of supervision.

If the majority is not absolute at the first voting, the meeting shall proceed to election by ballot, in which the number of candidates shall be restricted to twice the number of vacancies. In case of an equal number of votes the matter will be decided by lot.

Retiring office-bearers are re-eligible; supplementary elections may be held at extraordinary meetings.

23. Votes shall ordinarily be taken by show of hands unless the meeting decides in particular cases to vote by secret ballot or by written votes.

The chairman shall appoint two tellers to count the votes.

The Accountant and the Accounts.

24. The cash and books of the society are entrusted to an accountant appointed for four years, subject to three months' notice in case of resignation.

It is the duty of the accountant—

(*a*) to receive all monies and to make all disbursements according to the orders issued under section 18 (*a*) and by the managing director, to keep the books, the cash in hand, and the securities;

(*b*) at the end of each business year to settle and close the accounts and to submit in duplicate to the managing director before the 1st March, the balance sheet and accounts of the preceding year, together with all necessary documents in support thereof, and a detailed statement of the assets of the society.

25. The accountant may not be either a director or member of the committee of supervision. But he may be called on for his opinion by the directors when loans are in question. He is responsible to the society for the custody of its funds and for the proper management thereof. He must provide a surety or good security in an amount fixed by the general meeting, which shall be answerable for any deficiency in the cash balances or for any loss due to the default of the accountant, as well as for the costs of ascertaining and recovering such deficiency or loss.

26. The balance sheet must be drawn up on due business principles and must show in abstract.

(A) the total assets of the society including—
(1) the balance in cash and Government paper at the end of the year;
(2) the debts due to the society in their several classes; debts of doubtful value shall be entered at their minimum probable value, and those considered as irrecoverable shall be wholly excluded;
(3) the value of any moveables and immoveables possessed by the society as valued at the end of the year;
(4) interest due up to the end of the year.

(B) the liabilities of the society, including—
(1) every payment made to it in excess of the due amount;
(2) all business debts due by the society, whatever their due date of payment;
(3) the share amounts due to members;
(4) interest owed up to the end of the year though not payable till next year.

The difference between assets and liabilities shall form the profit or loss of year.

The balance sheet and an abstract of the accounts for the year showing profit and loss, shall be placed at the disposal of the members in some place and manner convenient for their examination thereof at least eight days before the general meeting at which it is to be discussed. Any member is entitled on payment to a copy of the above.

* *I.e.*, a majority of more than half the members present.

General.

27. The directors and members of the committee of supervision are all honorary and serve gratuitously, and can claim only expenses out of pocket.

The accountant will receive remuneration corresponding to his labour ; the amount shall be fixed by a specific resolution of the general meeting. Directors may give orders for the re-imbursement to members of their actual expenses.

All minutes of meetings, whether of the directors, committee of supervision or general meeting, shall be recorded in bound and paged volumes, in which all resolutions must be regularly entered. In the case of meetings of directors and of the committee of supervision, all present shall sign their names to the minutes after they have been read and approved : the resolutions of a general meeting shall be signed by the chairman, by two members present at the meeting, and by the secretary appointed by the meeting.

Chapter IV.

28. The funds of the society consist of the share subscriptions, borrowed funds, the deposits of the savings branch, commission fees, and surplus interest. These funds are employed in loans at interest to the members, in the expenses of the society, in the formation of a reserve, and in matters of the common welfare.

29. Every member of the society must subscribe for one share ; subscription may be made by instalments of at least per month, or by a single payment. Only one share may be subscribed for.

These shares are the personal property of the respective members. Should the society be dissolved the members are considered as creditors, but only take the last rank.

So long as a member continues in the society his share can neither be withdrawn, transferred, charged nor attached by a creditor. On the other hand, in case of liquidation of the society the shares will be used in the first place to satisfy the liabilities of the society should the other assets prove insufficient.

Withdrawing members can claim the repayment of their subscriptions unless the ownership in such shares shall have been made over to the society, or unless they are required in case of liquidation. Repayment must be made within six months of the expiry of the business year, unless the retiring member is in debt to the society.

The dividend payable upon the shares shall not exceed 4 per cent. The rate is fixed for each year by the committee of supervision after setting aside the amount payable to the reserve as required in section 34 *infra*. All dividends are credited to shares until such shares are fully paid up.

30. The general meeting shall fix by express resolution the amount which may be borrowed by the society including therein the deposits in the savings branch, as also the commissions and interest payable by members upon loans.

31. Loans may be made to members by the directors—

(*a*) For short terms up to one year, renewable by the directors up to a total duration of two years at most;

(*b*) For long terms up to 10 years.

If loans are required for terms longer than 10 years the matter must be placed for decision before the general meeting.

The general meeting also fixes, by special order, the dates of the annual repayments.

The society reserves to itself the right of calling in any outstanding loans on four weeks' notice, but this power may not be used save where there is a general run upon the society by its creditors, or when the debtors of the society or their sureties are in such a position that the funds of the society are endangered.

(*c*) On cash credits.

The general meeting can alone decide what shall be the maximum amount advanced to any one member upon cash credit by the directors. Credits above this amount may not be granted by directors without the assent of the committee of supervision.

The due employment of the loans granted must, as far as possible, be supervised.

Complaints against refusals to grant loans must be addressed to the committee of supervision, with a final appeal to the general meeting.

32. The security given for loans or cash credits must be absolutely good; such security may be either personal sureties, mortgages, or the deposit of good public paper such as is allowable for the investments of trust aud charitable funds.

If the security given is a surety or mortgage, care must be taken that the surety or the property mortgaged is worth at least double the sum borrowed. If it is public paper, then the current market price must exceed the loan by at least one-third.

33. (Relates to a method of counteracting a mode of usury peculiar to Germany.)

34. A reserve shall be formed for the purpose of covering any losses. For this purpose at least 10 per cent. of the profits calculated as in section 26 *supra* shall, for a period of 10 years, be annually credited to the reserve, and in addition so much of the profits as remains after paying in the above 10 per cent. and a dividend of 4 per cent. upon the shares.

After the expiry of 10 years the general meeting may, by a simple majority, determine the mode of distributing the profits so as to complete the reserve fund.

Sections 88 and 89 of the law are applicable to the division of the reserve in case of dissolution. So long as the society is in existence no member has any individual claim over the reserve, nor can the members require its distribution.*

CHAPTER V.

35. The present articles may be modified by a general meeting specially convoked for the purpose at which at least half of the members of the society are present.

If such number is not present a second special general meeting may be convoked which may pass resolutions on the subject irrespective of the number of members present. But in the notice convoking the second meeting it must be expressly mentioned that resolutions will be passed irrespective of the number present.

To carry a resolution of the above nature there must be a three-fourths majority of those present.

36. The voluntary dissolution of a society cannot take place should more than two members object to such dissolution: if three members protest, the society cannot dissolve, but those who desire dissolution may retire from the society.

Any proposal to dissolve a society must be addressed in writing to each member at least four weeks before the general meeting which is to dispose of the motion.

37. Disputes regarding the contents of the articles, or between members regarding the operations of the society, are to be disposed of by a general meeting with leave to appeal from such decision by a suit in court.

38. The first general meeting will choose by open voting—

(*a*) the chairman of the meeting;

(*b*) the members of the committee of supervision, the directors, and the accountant; it shall not be necessary at such meeting that the rules regarding the convocation of the meeting and the methods of voting shall be observed.

ARTICLES OF THE GENERAL UNION OF THE RURAL CO-OPERATIVE SOCIETIES OF GERMANY AT NEUWIED (RAIFFEISEN).†

CHAPTER I.

1. (Title and foundation).

2. *Object.*—The union has as its objects—

(1) the examination by its inspectors, as prescribed by law, of the (affairs, methods and accounts of the) societies adhering to it;

(2) the representation and guardianship in every respect of the interests of such societies;

(3) and, especially, the duty of organizing means for the sale and purchase of agricultural products and necessaries.

3. *Head-quarters and sphere of operations.*—The union shall have its head-quarters at Neuwied and may operate throughout the empire.

The minimum number of its adherent societies shall be 20, and the maximum, provisionally, 5,000.

CHAPTER II.—MEMBERSHIP, &c.

4. *Admission.*—The union will admit—

(1) rural credit unions (of the Raiffeisen type):

(*a*) which according to the co-operative law are constituted on the principle of unlimited liability or of unlimited supplementary payments (unbeschrankter Nachschusspflicht); ‡

(*b*) which by suitable arrangements endeavour to better the condition of these members both morally and materially;

(*c*) which only accept members, whatever their livelihood, from within a defined and very narrow area so that no member can belong to more than one society;

(*d*) which demand no entrance fee, and divide not more than 4 per cent. annually as dividend on the shares;

(*e*) which fix their shares at a maximum of 15 marks (shillings) each and allow a member to hold only one share;

(*f*) which grant no remuneration to any of their functionaries except the cashier, but only repay expenses out of pocket;

(*g*) which allot at least two-thirds of their annual gross profits to the accumulation of an endowment fund (Stiftungsfonds) for the advancement of the economic (or business)

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* In another set of model articles the following are the provisions relative to the reserve:—

"After payment of the dues of the society and the dividend, the whole of the surplus shall go to a reserve intended to meet any losses sustained by the society. Should the own capital of the society attain such an amount that the society can work on its own funds, the interest on such capital and the profits of business may be employed on some local work of public utility. The charges on loans should, in such case, be lowered.

"The reserve is the common property of the society: no member has any individual right over it, nor can he demand its distribution. In case of the voluntary dissolution of the society the reserve shall be deposited in the Imperial Bank, there to accumulate at interest until the formation of a new loan society which shall adopt the present (or similar) articles and be established in the same local area, in which case the fund in question shall at once be handed over to the new society."

See on the subject of the reserve, sections 7 (4), 20 and 156 of the co-operative law of 1889.

† The work done by this society was formerly done, or contemplated, to a greater or less extent, by the central bank which consisted of two sections, one financial, the other supervisory. On the passing of the general co-operative law of May 1889, the supervisory section of the central bank was abolished and a separate society formed for the sole purpose of audit and supervision in conformity with Chapter IV of the law, q.v.

‡ See the law of 1st May 1889 translated *supra*.

circumstances of its members; or, if the law permits, accumulate at compound interest from the surplus income, after allotting the dividend, an indivisible and common reserve fund;

(*h*) other registered co-operative societies, not being joint stock share societies, which seek to better the economic position of their members, such as vineyard, cherry, &c., associations.

* * * * *

6. (Rules for the mode of admission, withdrawal and expulsion of members (societies).

7. *Duties.*—Societies which belong to the general union are bound to the following duties:—

(*a*) to observe the principles mentioned in section 4 (1) and to fulfil the conditions therein contained;

(*b*) to accept the rules prescribed by the union for business and account keeping;

(*c*) to submit to examination by (the inspectors of) the general union and especially to the audit prescribed by law;

(*d*) to take in the organ of the union, viz., the 'Landwirthschaftliche Genossenschaftsblatt';

(*e*) by the first of May in each year to transmit the balance sheet of the preceding year to the chairman of the union, and any later information, and to mention any subjects which may seem of general interest;

(*f*) to pay the annual contribution due as costs of audit;

(*g*) to send at least one director to attend the ordinary meetings of the union, as also of the group (Unterverband) meetings, and to carry out the resolutions of the same.

8. *Rights.*—The adherent societies have the right—

(*a*) to demand at least once in every two years an examination (of their affairs) by an inspector of the general union.

(*b*) to be represented by their delegates at the meetings of the union or of the groups, and to submit thereat their proposals, provided that such have been sent by the 1st April at latest to the union chairman.

(*c*) to share in all the benefits offered by the general union, especially in those resulting from its organization for common purchases and sales.

Chapter III.—Administration.

9. *Organs.*—The duties of the general union are carried out by its chairman (general Anwalt) and his deputy (articles 10 to 13), by the general council (14 and 15) and by the general meeting (16 to 22).

10. *Chairman.*—The chairman as director undertakes the carrying out of the work of the union; he is elected by the general council who can also nominate one or more deputies.

11. *Duties of the Chairman*.—It is the duty of the chairman—

(*a*) to work for the dissemination and encouragement of the Rural Co-operative System especially as regards the Credit Unions of the Raiffeisen system, strictly in the spirit of its founder, to watch over their interests in every respect, to assist them in every possible way (mit Rath und That);

(*b*) to issue the necessary rules for the working of the societies and for their book-keeping;

(*c*) to arrange for suitable examination of the adherent societies according to law, and to appoint the necessary inspectors;

(*d*) and (*e*) (These require information regarding the societies, their business and the meetings of the union to be sent to the Government authorities);

(*f*) to summon the meetings of the general union, to carry out the resolutions of the same and of the general council, to appoint the staff, to carry on the current business and to present the annual report at the general meeting.

12. The chairman is responsible for the office arrangements of the union.

13. *Rights of the Chairman*—

(*a*) to propose to the general council the expulsion of adherent societies, to order extraordinary examinations of any society which he considers to be necessary in its own interests; to attend in person or by representative and to speak at the meetings of the general union and of the groups, as also at the general meetings of the adherent societies.

14. *The General Council.*—The general council consists of the members of the committee of supervision of the Agricultural Central bank and of the directors of the union; it acts as a standing committee of the general meeting of the union.

Its duties are—

(*a*) to elect the chairman (general Anwalt) and his deputy, provided that the director of the Agricultural Central bank or his representative shall ordinarily be chosen as chairman;

(*b*) to examine the employment of the funds of the union, to settle the accounts of the year and to lay them before the union;

(*c*) to watch over the interests of the union in every respect and in case of necessity to summon an extraordinary meeting to decree the expulsion of adherent societies on the motion of the chairman;

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(*e*) to fix suitable dates for the holding of meetings of the union.

15. (Rules for the meetings, &c., of the Council.)

16. *General Meeting.*—The general meeting of the union consists of the delegates of the adherent societies. Only directors of such societies may vote, but other members may take part in the meetings without the right of vote.

17. (Rules for the place and time of meetings.)

18. *Authority of the General Meeting.*—It is reserved to the general meeting—

(*a*) to decide all matters of common interest;

(*b*) to appoint committees for the due management of affairs;
(*c*) to receive the annual report from the chairman and as regards the accounts, to grant him quittance;
(*d*) to decide upon any changes in the articles;
(*e*) to authorize the formation of sub-unions and groups and to permit their representation by delegates: such unions and groups must, as far as possible, be conterminous with political divisions [*e.g.*, districts and circles (taluk)].

19 to 21. (Rules for the summoning for meetings.)

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CHAPTER IV.—INSPECTIONS.

23. *Duty of the Union.*—The general union undertakes the duty of examining by its permanent inspectors at least once in two years, the societies adhering to it, and of inducing the removal of any defects which may be discovered thereby.

24. *Method.*—Examinations of societies shall be carried out according to the method prescribed by these articles. They should not be restricted to a mere arithmetical audit of the books and balance sheets; the inspector is specially charged to see that the administration is carried on in strict accordance with the spirit of the co-operative law, the articles, and the rules of the general union.

The inspectors have the right (section 61 of the co-operative law) to examine all the books and documents of the society (under examination), to ascertain the agreement of the cash balance with the accounts, and the presence (in the safe) of all securities, paper and goods shown in the books. The committee of supervision of the society under inspection must assist thereat.

25. *Report of inspection.*—A report in duplicate shall be drawn up of each such examination, and signed by the inspector, by the committee of supervision of the society examined, by its directors, and by the cashier. One copy is to be sent to the society examined to be placed before the next general meeting, the other to the chairman of the general union for examination and for such further steps as may be needed for the removal of defects.

26. *Certificate by inspector.*—The inspector must grant a certificate of any examination which has been held according to the rules, and this shall be forwarded by the directors to the proper Court.*

27. The inspector is entitled to be present at the general meeting of the society examined and to speak thereat.

28. In special cases, and particularly in case of grave breaches of duty by one or more of the administrative organs, so that the status of the society or the reputation of the union is endangered, the inspector has the right, without delay and in accordance with the articles, to convene an (extraordinary) general meeting and to obtain thereat new appointments (of directors, &c.) irrespective of the lawful claims of the society against the administrative agents. In such cases the inspector must at once report his action to the chairman of the general union.

29. *Extraordinary examinations.*—Upon the opinion of the union chairman extraordinary examinations may be, and, upon the request of the director of the Agricultural Central bank, shall be instituted, and the societies whose affairs are examined shall be bound to pay the costs.

30. The appointment of examiners rests with the union chairman. In such appointments it is essential—

(*a*) that the candidates shall be of thoroughly good reputation in every respect (in jeder Beziehung durchaus unbescholten sind);
(*b*) that they shall not be members of any of the societies to be examined;
(*c*) that they shall have thoroughly grasped the co-operative idea as displayed in the Raiffeisen system;
(*d*) that they shall be physically capable of enduring the fatigues of rural inspections.

The final training of the candidates shall take place under the supervision of the union chairman and before being sent on independent inspections they should have made a series of such examinations under an experienced inspector until they have proved themselves thoroughly capable.

Their final appointment shall be made only after a practical and thorough examination by the union chairman.

31. The union chairman may appoint chief inspectors for supervising and controlling the inspectors.

CHAPTER V.

32. Complaints by adherent societies shall be disposed of by the general council of the union, and, in the second instance by the general meeting.

ARTICLES OF THE AGRICULTURAL CENTRAL CREDIT BANK, NEUWIED (RAIFFEISEN).†

CHAPTER I.—FOUNDATION AND OBJECT.

1. A joint stock society under the name of 'Agricultural central credit bank' is hereby founded with the following articles.

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* See sections 10 and 61 of the co-operative law translated elsewhere.

† This is intended as a central bank for the benefit of all societies which accept the Raiffeisen principles of co-operative action. The members of this bank are societies, save only such individuals as are necessary for its due working; it is a joint stock association of societies for their respective financial support and mutual assistance: *see* Volume I, pages 152, 153.

2. Its object is banking and credit business with preferential consideration for agriculturists.

3. Its head-quarters shall be Neuwied.

Chapter II.—Capital, Shares and Shareholders.

1. The capital of the bank shall be £25,000, divided into 500 shares, personal (auf den Namen lautend), and each of £50.

2. The capital may be increased by resolution of the general meeting.

3. The shares shall be made out in definite names and shall be signed by two members of the committee of supervision and by one of the directors. They shall be provided with interest coupons.

Every claim on a dividend coupon is extinguished, when such dividend has not been drawn within four years from its due date. Any lapsed dividends shall be credited to the reserve.

4. The following alone will be admitted as shareholders, viz., persons who belong to the board of directors and committee of supervision, and co-operative credit unions—

(*a*) which * are constituted under the form of unlimited liability;
(*b*) which by suitable arrangements endeavour to better the condition of their members both morally and materially;
(*c*) which only accept members, whatever their livelihood, from within a defined and very narrow area, so that no member can belong to more than one society;
(*d*) which demand no entrance fee, and, so far as the law permits, have no business shares,† or only admit one share for each member, and which grant on such share no higher dividend than the interest demanded from borrowers;
(*e*) which grant no remuneration to any of these functionaries except the cashier, but only repay expenses out of pocket;
(*f*) which carry all net profits to an indivisible and joint reserve;
(*g*) which accept and attend to the instructions issued by the General Union ‡ for management and book-keeping, submit to audit by the (inspectors of the) General Union, and permit the examinations instituted by the same.

Shareholders must enter on the bank's share-register their names, addresses, and the number of shares which they take.

Transfer of shares to persons and societies described above may be made by simple endorsement with the previous consent of the board of directors: such transfer is noted in the register.

5. Ten per cent. of the share amounts shall be paid down and the rest by instalments of at most 10 per cent.: provisional scrip to be issued till complete payment, but the holder has all the rights of a full shareholder: 6 per cent. interest is charged on arrears and a fine of 10 per cent. of the amount of such arrears.

6. (Rule relating to cancelment of shares.)

Chapter III.—Organization and Management.

1. The organs of administration are, the general meeting, the committee of supervision, and the board of directors.

Their composition is as follows:—

(*a*) The general meeting consists of the shareholders (Chapter II, 4); all shareholders are entitled to take part therein, each having one vote. Societies taking part in the meeting exercise their right of vote by their lawful representatives.

Every shareholder can be represented by another duly authorized shareholder; such authorization must be in writing. No person other than a shareholder may be appointed as proxy.

(*b*) The committee of supervision consists of nine members. The number may be increased by the general meeting, but so that the number may be divisible by three. It is appointed for three years: each year one-third retire; during the first two years the retiring members are chosen by lot. Should any member die or otherwise retire, the committee must make up the member until the next general meeting at which an election is held.

The committee annually chooses one of its members as president and two others as deputies of the same.

(*c*) The board of directors consists of a managing director and a cashier, together with a deputy of the first named, and two members.

2. The bank may establish branches and agencies. A resolution of the committee of supervision is necessary for this.

(3, 4, 5 and 6 relate to the convocation of meetings, to elections, to persons entitled to sign for the bank, and to the keeping of minute books.)

Chapter IV.—General Meeting.

1. Ordinary meetings are annual: extraordinary meetings are held when summoned by the directors, by the committee of supervision, or by at least one-tenth of the members.

2. The list of subjects is settled by the managing director and the president of the committee, the opinion of the latter prevailing in case of disagreement.

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* These conditions (*a*) to (*g*) must all be fulfilled by societies seeking admission as shareholders; it is not meant that a society which merely satisfies any one of the conditions is admissible. The conditions in question are the main principles of the Raiffeisen societies.

† Under the new law of 1889 this condition requires modification: *see* the corresponding rules in the articles of the General Union.

‡ *See* translation of the articles of the General Union (General-Anwaltschafts Verband) *supra*. This originally formed a section of this bank, but was separated and formed into a new society subsequent to the passing of the law of 1st May 1889: *see* sections 51–62 on pages 295–96 of Vol. I, and the law itself translated *supra*.

Every shareholder is entitled to propose a subject for discussion. (Only subjects proposed in due time and proposals for a subsequent meeting may be voted upon, though others may be discussed.)

* * * * *

7. For the audit of the annual accounts settled by the committee of supervision with a view to acceptance (by the general meeting) and for the examination of the management, the general meeting must annually appoint for the following year an accounts committee of not less than three persons who will elect their chairman and apportion the work between them.

On the report of the accounts committee and of the chairman of the committee of supervision, and after hearing the report of the directors, the general meeting will, if it sees no objection, accept the accounts.

The members of the accounts committee have a claim to the refund of any expenses out of pocket.

Chapter V.—Committee of Supervision.

1. The committee of supervision watches over the conduct of business in all branches; it can acquaint itself with the progress of all transactions, may at any time inspect the books and documents, and examine the cash balance.

It should summon a general meeting whenever required by the interests of the bank.

2. The prior consent of the committee is required in the following matters :—
   (*a*) for the granting of cash credits;
   (*b*) for investments, &c., in mortgages;
   (*c*) for the fixing of the rates of interest and commission;
   (*d*) for the settlement of the dividend and of the allotment to the reserve;
   (*e*) for the investment at interest of the reserve and of un-employed funds;

(and in various other duties such as the establishment of branches and agencies, the management and sale of immovables, the budget, and the initiation of coercive process for collecting debts, &c. They also have the other duties of directors in an English company. They may form amongst themselves committees either temporary or permanent for the better carrying out of their duties; and for the general superintendence of affairs especially as regards investments, the opening of cash credits, &c., and for the preliminary settlement of the balance sheet and accounts of the year, there must be a standing committee of at least three persons. This committee must at least twice in the year make special (ausser-gewöhnliche) examinations of the affairs and accounts, besides the regular monthly audit by one of their members or by some expert appointed by them; a report of each such audit must be made to the committee of supervision.

A meeting of the committee of supervision is only valid, if more than half the members are present: the suspension, &c., of directors, and decisions to establish branches and agencies require the votes of a majority of the whole committee.)

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9. The members of the committee of supervision serve gratuitously, but may claim the refund of any payments out of pocket.

Chapter VI.—Directors and Staff.

1. The directors are charged with the management of the business. They represent the company judicially and extra-judicially in accordance with the code of commerce, the present articles, and the business rules.

All speculation in movables or immovables is absolutely forbidden. (The duties of the board and of the managing director are laid down in detail, but do not need translation.)

Chapter VII relates to the accounts which must be kept by double entry: full details are given for the preparation of a balance sheet which shall show the exact value of the assets and liabilities, the assets being carefully rated at their *actual* value.

Chapter VIII.—Operations.

1. The bank proposes as its primary object to satisfy, as far as possible, the needs of the agricultural population for credit, and to provide for their savings a secure place of investment. The undertaking is for the common benefit, and not with the object of gain. All speculation, and particularly all business with which any probability of risk is connected, is expressly forbidden.

2. The funds of the central bank, outside of the own capital, shall be obtained—
   (*a*) by the issue of irredeemable * (unkündbar) debentures; the committee of supervision is empowered to obtain, through the directors, the consent of Government,† as soon as the proper time shall have arrived;
   (*b*) from deposits, especially those of long term;
   (*c*) from commission, excess interest,‡ and casual profits.

3. The funds of the bank shall be employed—
   (*a*) in loans to the registered co-operative societies which are shareholders of the bank;
   (*b*) in bills of exchange and loans on pledge are the principles of the National bank;
   (*c*) on mortgage business;
   (*d*) on the management of immovables where required in the interests of the bank.

   Sums not applied to the above purposes shall be employed;

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* *I.e.*, not redeemable at the pleasure of the holder of the debentures, but only within or after a fixed period, or at the pleasure of the bank within such period.

† By German law, the express consent of Government is required before a bank can issue debentures, at all events of the land mortgage class.

‡ *I.e.*, general profits, viz., the difference between the interest received and the interest paid.

(e) in the purchase of bonds to bearer, issued by the Empire or by any of the German States, or any paper of corporations or communes issued under the authority of such state and of which the interest is guaranteed.

The funds derived from excess interest, commission, and casual profits shall be employed—

(f) in meeting the expenses of administration;

(g) in paying a dividend to the shareholders. The committee of supervision shall, after deducting the amount assigned to the reserve by the next paragraph (h), declare from the profits an annual dividend. This shall be calculated upon the amount actually paid in upon the shares, and shall never exceed the rate of interest paid by the shareholders for loans obtained by them;

(h) in accumulating a reserve. From the net profits * shall first of all be deducted a sum of 20 per cent. for the reserve. From the remainder shall be paid the dividend calculated as in paragraph (g); any surplus shall go to the reserve. The object of the reserve shall be the recoupment of losses of all kinds. At the dissolution of the bank the reserve may be divided among the shareholders.

Chapter IX.—Miscellaneous.

1. Complaints by the shareholders are decided by the committee of supervision, and in the second resort by the general meeting.

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3. At least two-thirds of the shareholders must give their votes in the affirmative before the bank can be voluntarily dissolved.

LAW FOR THE ESTABLISHMENT OF PUBLIC LOAN OFFICES; ALSACE-LORRAINE (18th JUNE 1887).†

1. The Government is authorized, upon request of any communal council, to establish in the commune (Gemeinde) a public loan office. Upon a resolution of the communal council the chief tax-payers are bound to co-operate according to the terms of section 42 of the law of 18th July 1837 for the administration of communes.

The business area of such loan office may be either a single commune, or the neighbouring tracts of one or more communes.

2. The loan offices may grant loans at interest to agriculturists and tradesmen (Gewerbetreibende) upon security. The borrower must always, and the surety must, as a rule, be a resident within the business area of an office.

3. The loans may extend to a sum of 1,000 marks (£50), and for a period of three years at most. But with the consent of the supervising authority (s. 19) loans may exceptionally be granted up to 2,000 marks, and for a period of five years.

The rate of interest shall not exceed 5 per cent.

The borrower is at liberty at any time to repay the borrowed amount in whole or in part, provided that each instalment shall not be less than five marks.

4. The first cost of the establishment of a loan office shall be provided from the funds entered for such purpose in the 'Landeshaushalt' budget.‡

5. Loan offices will, on their application, be provided with working funds by the Government treasury at an § interest not exceeding 4 per cent., and within a total sum fixed by the budget.

The Government shall fix the maximum for grants to be made to single loan offices from the amount at their disposal, and will issue the necessary instructions for communications between the deposit office and the loan office.

6. The loan office may in their own names establish claims, enter into contracts (or incur obligations) and sue or be sued (*i.e.*, they are corporate bodies).

The provisions of the general German Code of Commerce regarding registration in the commercial register and its legal consequences, are not applicable to these offices.

They shall enjoy the same privileges as the exchequer in the matter both of taxes and cesses, and of costs in proceedings before the courts.

7. The internal management and the business arrangements shall be regulated by articles drawn up by communal councillors appointed for the purpose, and confirmed by the Government.

The articles must contain rules on the following points:—

(1) the election of the directors (section 8), where the business area comprises more than one commune;

(2) the meetings of the directors, the periods for which the members shall exercise their functions, their resolutions, their methods of voting and of issuing orders, and the representation of members in case of temporary or continuous absence;

(3) the powers and duties of the directors, of the chairman and of the cashier, and the measures to be taken against negligent directors;

(4) the minimum amount to be granted on loan;

(5) the mode in which demands for loans are to be made;

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* *I.e.*, the excess interest, &c., less the expenses of administration.

† *See* Vol. I, pages 156–57. According to Mr. Wolff these carefully thought-out and privileged institutions have been of little service or development ("the practical effect proved next to *nil*"), while the private Raiffeisen Credit Unions are rapidly developing.

‡ The funds in question are public funds.

§ Landesdepositenverwaltung. This corresponds to the French 'caisse des depôts et consignations,' or to the National Debt Commissioners of the English Treasury.

(6) the circumstances under which such demands may be refused.

The benefits of a loan office shall especially be refused in cases where any loss has been incurred by the office or by a surety on a previous loan to the candidate, or where he has obtained a former loan under false pretences;

(7) the general stipulations of loan contracts;

(8) the methods and forms of accounts, and the principles to be observed in preparing the balance sheet, especially in the matter of treating doubtful claims;

(9) the security to be given by cashiers;

(10) the amount and investment of the reserve (section 16);

(11) the period mentioned in the last part of section 16 and the proportion in which the division of any surplus shall be made for the benefit of the several communes within the business area;

(12) the circumstances under which the articles may be modified, under which single communes may withdraw from the union in cases where the business area comprises several communes, and under which the office may be closed.

8. The board of directors shall consist of a chairman and four members.

The chairman shall be appointed by the supervising authority (section 19): the members shall be elected. If the business area comprises only one commune or parts of one commune, the communal council shall arrange for the election; if of several communes, then the several councils or their deputies according to provisions expressly laid down in the articles of the office.

The chairman and members must be residents in the business-area, subjects of the German Empire, and in possession of their full civil rights. On the loss of such conditions they lose their position on the board.

The supervising authority will appoint one of the members as deputy chairman.

9. The office is represented judicially and extra-judicially by the board. Such representation extends also to such affairs and court business as by law require a special authorization. In matters which the board have settled in the name of the office within the limits of their authority as laid down in the law and in the articles, the office is both bound and justified by such action.

10. The office of member of the board is honorary (Ehrenamt). The articles may, however, allow actual expenses out of pocket.

The accounts and cash are looked after by a cashier appointed by the board and confirmed by the supervising authority. He may be granted a fixed stipend from the funds of the office, but payment by a proportion of the profits (Gewährung von Tantiemen) is not permissible.

The cashier may not be a member of the board. The tax collector and accountant (monigar and kurnam) of the commune are bound to undertake the duty of cashier to the office if offered to them.

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12. The board is authorized in accordance with rules to be issued by Government—

(1) to claim information and assistance from public officers and authorities, and especially to demand their co-operation in the receiving and giving opinion on applications for loans;

(2) to assign the care of local cash affairs to revenue officers. Officers entrusted with the cash affairs of the office are bound to follow the business regulations of the directors. But the directors have no disciplinary authority over such officers.

* * * * *

13. The board and all those who are occupied in the transactions of the office are bound to keep silence on all private matters which come to their knowledge in the exercise of their functions.

14. Any claim of the loan office shall, of right, be repayable in full—

(1) if the debtor without the previous consent of the board of directors applies the loan amount to any other purpose than that specified in the agreement;

(2) if the debtor is in arrears for more than one month as regards any stipulated payment;

(3) if any coercive process is instituted against him or his surety:

(4) if proceedings in bankruptcy are opened against him or a surety;

(5) if the debtor without permission of the board borrows money from any person who makes a trade of money lending.

15. The office can, without prejudice to its rights, proceed by way of judicial execution to the collection of its loans with interest and costs according to the rules in force for the collection by coercive process of the public revenue. For the above purpose sections 708, 709, and 712 of the Civil Procedure Code shall be applicable.

16. To cover any losses a reserve fund, to the amount of at least 10 per cent. of the liabilities, shall be accumulated from the net profits. Should such reserve exceed the amount fixed by the articles, the communes within the business area of the office are entitled to any surplus disclosed at the end of the year, for investment in any matters of public utility though not expressly laid down in the law. Where the excess has accrued by reason of a decrease in the liabilities of the office such assignment thereof should take place only on the expiry of a term of years to be fixed by the articles of the office.

17. If the means of an office do not suffice to cover its liabilities, the communes within the business area of the office must make up the deficiency shown by the balance sheet of the year by a *pro ratâ* contribution proportionate to the proceeds of their respective tax collections. Such contribution shall not exceed 5 per cent. of these collections, and shall be considered as an obligatory communal expenditure in the sense of section 30 of the law of 18th July 1837, regarding communal administration, and accounted for as extraordinary expenses.

18. An office which is permanently unable to meet its engagements can be dissolved by Government. In such dissolution the winding up of the business shall be carried out by the board of

directors, or, in default, by the supervising authority. For a period of four years from the expiry of the business year in which the supervising authority winds up affairs, the communes of the business area of the office shall be liable to make the contributions mentioned in section 17 *supra.*

19. The supervision of the loan offices rests with the Tahsildar (Kreisdirektor) who watches over the carrying out of the regulations provided in the law and in the articles. His approbation is necessary to the resolutions of the board in regard to the salary to be given to the cashier and to the security to be taken from him. He verifies the cash balances and the annual accounts, and grants a certificate of correctness (Decharge). Before the grant of this certificate the balance sheet is to be communicated to the councils of the respective communes.

The confirmation of Government is necessary to the resolutions of the board in the matter of borrowing funds, whenever such borrowing is made otherwise than from the treasury.

An office is bound at any time, upon demand by the Tahsildar or his deputies, to submit for their inspection the affairs, books and accounts of the office, and to permit the verification of its cash balances. At such verification the presence of the mayor of the commune in which the office is situated must be invited.

The Tahsildar may require meetings of the directors to be convened, and in case such demand is not complied with, he can himself convoke such meetings. In meetings convoked upon his motion, he or his deputy can take the chair.

Should the board refuse to carry out its duties as required by the law or by the articles, its members will be deprived of their office. The Tahsildar must in that case either personally or by his representative take over the powers and duties of the board at the expense of the office, and arrange at once for the appointment of new directors.

20. For the official year 1887-88 the amount mentioned in section 5, paragraph 1, is fixed at £25,000.

21. The Government will issue regulations* for the carrying out of the law.

LAW OF 28TH JANUARY 1894 RELATING TO THE PLEDGE OF CATTLE (CANTON THURGAU, SWITZERLAND). †

1. The pledging of cattle (remaining) in the possession of a debtor is permitted in favour of Cattle Loan offices established by communes and approved by the authorities (Regierungsrathe); *see* section 210 of the Federal law of contract, dated 14th June 1881.‡

2. For the validity of such pledges of cattle an agreement drawn up in writing is necessary: the agreement must mention (*a*) the time and place of the agreement, (*b*) the amount advanced, (*c*) the terms of repayment, (*d*) the exact description of each head of cattle according to species, colour and age.

3. The deed of agreement is to be handed in to the executive officer of the taluk (circle, Kreis) in which the pledgor resides. Such official shall forthwith enter it in the register kept by him for mortgages of cattle, shall endorse upon it its register number and a certificate of its registration, and shall then hand it over to the pledgee.

Every prior pledge (of the same cattle) shall be noted by the executive officer both in the register and on the document.§

4. A charge of one franc is payable (as registration fee) to the executive officer on each occasion when cattle are first pledged.

5. A pledge (mortgage claim, Pfandrecht) becomes valid (is acquired, erworben) upon the registration of the document in the books of the executive officer, but without prejudice to the claims of any prior judgment-creditor so far as regards the cattle which, at the time of the execution of the document, are in the possession of the debtor.

A valid claim is also acquired by the lending office when, at the time the claim originates, the office in good faith believes the pledgor to be the owner, even though in fact he is only the possessor, provided that the cattle are neither stolen nor lost property.

6. Should another head of cattle be lawfully pledged (to the Loan office) in substitution for the one originally pledged, an entry (to that effect) may, even without the consent of the creditor-office, be made in the document and in the registration books; for such entry a fee of half a franc (50 Rappen) is payable.

In other cases respecting the alienation of pledged cattle and the rights of third parties (purchasers), the provisions of section 96 of the Federal law of Debt and Bankruptcy (11th April 1889) and of section 57 of the Cantonal law of 3rd May 1891 are applicable.

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* These have unfortunately not been hitherto obtained.

† This law repeals that of 1851 mentioned in Vol. I, pp. 161, 162.

‡ The law of mortgage in continental Europe invariably forbids the pledge of movables without actual delivery of the goods by the pledger. Of late years several countries have specially legalized pledge without delivery, as in English bills of sale, in favour—usually—of banks or societies lending to agriculturists; *see supra s. v.* 'Belgian law regarding Agricultural credit, 1894,' and the Italian law of 23rd January 1887.

The Federal law of Switzerland, section 210, is as follows:—

"210. The mortgage of movables or of paper payable to bearer takes place only by actual pledge (Faustpfand). Such pledge is effected by the delivery of the goods to the pledgee or to his representative. Such delivery shall not be complete so long as the goods remain in the custody of the pledgor.

"Nevertheless the State laws of the several cantons may permit the pledge *of cattle* by mere entry in the public registration books."

The law of Canton Thurgau is that given in the text and is a mere development of that of 1851, which permitted, in favour of Cattle Loan offices, the pledge without delivery of cattle purchased by means of loans from such offices, and only in security for such loans. It will be noticed that this exception to the general law is made only in favour of approved communal Cattle Loan offices, and does not apply to any private creditors or to other Loan societies.

§ Presumably this refers only to pledges still outstanding against the same cattle.

ARTICLES OF A COMMUNAL LOAN SOCIETY FORMED FOR THE PURCHASE OF CATTLE (CANTON THURGAU, SWITZERLAND).*

1. *Object.*—A cattle loan society shall be formed in the commune (village) of with the object of facilitating the purchase of cattle by the inhabitants of the village, and of thus, on the one hand, assisting agriculture, and, on the other, preseuting the injurious effects of usury as practised in cattle dealing.

2. *Resources.*—With this object the inhabitants of the commune will establish a fund either from their own resources † or by means of a loan contracted upon their responsibility, the maximum amount of which shall be fixed by the administrative committee. Any loan so contracted must bear the lowest possible rate of interest.

3. *Administration.*—The administration of the fund is entrusted to a committee appointed by ballot by the inhabitants of the commune. The committee will choose from among its members a manager who will have to give security in a sum to be settled by the commune.

4. The duties of the committee will consist (1) in the maintenance of a general supervision over the progress of the institution, (2) in the granting of loans, (3) in making to the commune all such reports and proposals as may seem desirable in the interests of the institution.

5. The manager shall have the immediate charge of the funds, shall settle the details of the loans, with the conditions of and security for the repayment thereof, and shall keep the books; every year, at a date to be fixed by the commune, he shall give account of his management.

6. The annual accounts shall be examined and passed on the same principles as those laid down for the management of other communal resources.

7. The salary of the manager should he demand any, or should it appear right to pay him, shall be determined from time to time by the communal assembly, consideration being given to the amount of business: the salary shall, if possible, be paid from the resources of the institution itself.‡

8. *Employment of the funds.*—Any inhabitant of the commune may obtain a loan from the funds of the society for the purpose of buying cattle; such loan may not exceed £12 per head of cattle. This maximum may be increased by a decision of the inhabitants upon the report and proposal of the administrative committee.

9. The borrower must furnish proper security for the amount lent; such security may be personal or otherwise. In default of other security the repayment of the loan may be assured by taking a mortgage, according to the provisions of the law, § of the cattle bought with the loan. It shall be permissible to the administrative committee to send one of its members, or the borrower's surety, or some other trustworthy person, with the borrower to be present at the purchase of the cattle; the expenses of such person shall be paid by the borrower. If the committee consider that the borrower is sufficiently experienced in the matter of cattle purchase, the amount (of the loan) may be handed over to him without further formalities.

The committee must watch over the due maintenance of the securities furnished, and the borrower is bound at once to insure the cattle with the Cattle Insurance Society.

10. The interest on loans must be paid annually at Martinmas; when repayments of the principal are made, interest to date must be simultaneously paid. Interest shall be 4½ per cent. per annum, and shall be payable in full for the whole quarter in which the loan is made and for that in which it is repaid.

11. The repayment of the loan shall forthwith be claimable should the borrower sell the cattle mortgaged (to the society) as security, or he should he make purchases on credit.‖ Should the borrower desire to sell any of the cattle charged, he must notify his sureties and the manager of the society, failing which he will be legally liable.

12. The expenses of effecting a loan, *e.g.*, the costs of the sureties, of the security bond, of registration, &c., shall be borne by the borrower. The manager, if he himself is not the cattle inspector, must give all necessary information to the head of the commune in order that all proper steps may be taken by the latter.¶

13. *Reserve.*—The net profits shall be credited to a reserve, which shall be employed to cover any losses which may occur. Any losses caused by negligent management shall be borne by the administrative committee, who may in turn proceed against the member at fault.

The inhabitants of a commune cannot be called upon to make any payments in place of the society until all the resources mentioned in this article shall have been exhausted.

The inhabitants shall (in such case) contribute in equal shares to cover any deficit.

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* *See* Vol. I, pp. 161–2.

† In Europe the commune is a corporate body with its own property, resources, and powers; it is the lowest administrative unit in local government, and is managed, usually, by a council which meets only occasionally (general meeting) and by a standing committee (board of directors). In Switzerland the 'communal assembly' appears, as in these articles, to be a meeting of all the capable inhabitants of a village, so that their decisions are absolutely popular decisions; throughout these articles the words used are 'the inhabitants of the commune.'

The re-habilitation of the commune, or village system, in this Presidency, seems a desirable step in administrative progress.

‡ That is, the salary must be paid, if possible, from the profits of the loan society and not from communal funds proper.

§ The cantonal law of Thurgau and the Federal law of Switzerland enact special privilleges for the encouragement of cattle-breeding; the Federal law grants permission, contrary to the general law of pledge, to mortgage cattle *without delivery* 'by simple entry on the public registers:' the cantonal law restricts this privilege to cattle bought with the proceeds of a loan granted by the cattle society, and for the purpose of securing the repayment of such loan.

‖ The society declines, for its own safety, to continue its dealings with a person who is elsewhere running into debt. The provision is stringent, and obviously based on experience; on the matter of indebtedness and bankruptcies in certain Swiss cantons, *see* Vol. I, pp. 43, 44.

¶ This clause relates to the provisions of the law regarding cattle and cattle breeding; *see* translation *supra*.

14. *Duration.*—The society shall subsist until the communal assembly decides to dissolve it. For such decision the consent of two-thirds of those villagers present in an ordinary communal assembly shall be necessary.

15. The present articles may at any time be modified by the decision of two-thirds of those present at a regular (communal) assembly.

EXTRACTS FROM THE ITALIAN CODE OF COMMERCE (1882), RELATIVE TO CO-OPERATIVE SOCIETIES.*

* * * * *

219. "Co-operative societies are subject to the provisions which regulate the class of society of "which they assume the character, as defined in article 76, with due regard to the following special "provisions."

(*Note* 1.—Article 76 divides commercial societies into three classes—

(1) "Società in nome collettivo," *i.e.*, based on unlimited liability;

(2) "Società in accomandita," in which the liability, of some members is unlimited, while that of others is limited to a fixed sum;

(3) "Società anonime," in which the liability of each member is limited to the amount of capital subscribed by him.)

220. "Co-operative societies must be constituted by a public deed."

(*Note* 2.—*I.e.*, a notarial act.)

"The deed of constitution, besides those particulars required, in compliance with articles 88 and "89, according to the respective class of association to which the society belongs, must further state.

(1) "The conditions of the admission of new members, and the manner in which and time when they are to contribute their subscriptions as members;

(2) "The conditions required for the withdrawal and the expulsion of members;

(3) "The formalities to be observed in summoning general meetings, and the public journals "appointed for the publication of the acts of the society."

(*Note* 3.—Articles 88 and 89 contain those particulars as to the name, seat, object, organization, and administration of the associations mentioned in Note 1, which the code requires to be stated in their respective constitutions or acts of incorporation.)

221. "Co-operative societies are invariably subject to the provisions affecting societies with limited "liability ('Società Anonime'), so far as regards the publication of their constitutions and of any sub-"sequent amendments thereof, and also in respect to the duties and responsibility of their directors "('Amministratori'). The publications in question are made without charge."

(*Note* 4.—The regulations as to these publications are to be found in articles 91, 92, 94, 95 and 96 of the Code. Those as to the duties of directors are contained in articles 139 to 153.)

"The directors must be elected from among the members, and may, by the Act of Constitution, be "exempted from the obligation of depositing caution-money.

"Those provisions which relate to the general meetings, balance sheet, committees of control "('sindaci'), and liquidation of joint-stock associations ('Società per Azioni'), are equally applicable "to co-operative societies, so far as the following articles or the Act of Constitution do not provide "otherwise.

"The quality of 'co-operative,' as well as the kind of society, must be expressly stated in all the "documents enumerated in article 104."

(*Note* 5.—*I.e.*, in every contract entered into by the society, and in every deed, letter, publication, or notice referring to it.)

222. "The provisions of the first part of article 131, and of the first paragraph of article 146, do "not apply to co-operative societies."

(*Note* 6.—The portion of article 131, here referred to, makes the subscription of the entire capital and the payment by every member of three-tenths of the portion subscribed by him an indispensable preliminary condition to the constitution of any society, and forbids the issue of any new shares before the old ones are entirely paid up.

The first paragraph of article 146 requires the directors of a society, whenever they discover the capital to have diminished by one-third, to summon the members and ascertain whether they intend to make up the capital to its former amount, limit it to the amount remaining, or dissolve the society.)

"The Act of Constitution of these societies may omit to comply with the provisions of article 144, "and with those of section No. 3 in article 165."

(*Note* 7.—Article 144 precludes the directors of a society from purchasing its shares on the society's account without the authorisation of the general assembly of the members, and unless such purchase is effected by means of sums taken from profits regularly ascertained, and the shares in question are entirely paid up. It also states that in no case can the directors make any advance of money upon the shares.

Article 165, section No. 3, provides that the share certificates ("Titoli delle Azioni") shall state the amount of the society's capital, and the number and total value of its shares.)

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* The sections here translated are merely those which relate solely to co-operative societies. But, as stated in section 219, these societies are also subject to the provisions which regulate the class of society of which they assume the character: these are numerous and will be found in full in the chapter on the "Law of societies in general," in this appendix.

The translation is taken from Commercial No. 20 of 1886.

223. "The directors of co-operative societies must keep the register of members in accordance with "the provisions of article 140, and must further state therein:

1. "The date of the admission and that of the withdrawal or expulsion of every member.
2. "An account of the sums paid in and withdrawn by each member.

"They must present, at the end of every quarter, to the office of the tribunal of commerce, within "whose jurisdiction the seat of the society is established, a statement of the members whose liability is "unlimited, admitted into, withdrawn from, and remaining in the society in the course of the quarter, "giving their names, surnames and domiciles.

"This statement must be signed by the directors and kept by the clerk of the court, open to the "free inspection of all comers."

(*Note* 8.—Article 140 provides for the keeping of a register of members by the directors of all societies, in which shall be entered the payments made by them on account of the original capital subscribed by them, and of any subsequent increase of capital, as well as the declarations required by the law, in the event of the transfer of personal shares ("Azioni Nominative"), whether 'inter vivos' or on the death of the owner.)

224. "No person may hold in a co-operative society a larger proportion of capital ('quota sociale') "than 5,000 fr., or a number of shares exceeding that amount in nominal value.

"The nominal value of each share may not exceed the sum of 100 fr.

"The shares are always personal ('nominative'), and may not be transferred until they are wholly "paid up, nor without the transfer being authorised by the assembly (of members), or by the Board of "Directors, according to the provisions of the constitution of the society."

225. "Members may not be represented by proxy at the general meetings, except in cases of lawful "impediment provided for in the act of incorporation or constitution of the society.

"Each member has but a single vote whatever the number of shares held by him.

"No proxy may represent at the same meeting more than one member besides his own interest, if "he be himself a member."

226. "The admission of new members is effected by their being entered in the register of members, "either personally or through a special representative.

"Such entry must be authenticated by two members who are not directors.

"If the constitution of the society authorises members to withdraw from it, the declaration of "withdrawal must be entered by the member withdrawing in the register of members, or notified to the "society in due form through a sheriff's officer ('per alto d' usciere'). It shall only take effect at the "end of the current year of the society, provided it be made before the beginning of the last quarter of "that year. If made later, the member remains bound for the succeeding year.

"The expulsion of members can only take place for the reasons laid down by the law, or by the "constitution of the society. It must be discussed either by a general meeting or by the Board of "Directors, according to the provisions of the said constitution."

227. "In regard to transactions concluded by the society previous to the day on which the "withdrawal or expulsion of a member takes effect, or the day on which the transfer of shares is entered "in the register, the departing member remains bound towards third parties for two years from the said "day, within the limits of his liability as laid down in the act of incorporation."

228. "The acts of incorporation of co-operative societies and the acts of withdrawal and admission "of their members are exempted from the usual registration and stamp dues."

MODEL ARTICLES* OF A POPULAR CO-OPERATIVE BANK (ITALY).

Preliminary.

The bank . . . . declares that it will be subject to the provisions of the Code of Commerce relating to co-operative associations with limited liability ("Società Co-operative Anonime"), and that it will comply therewith in accordance with the accompanying act of constitution.

Title I.—Constitution, Object, Duration and Seat of the Association.

1. A Co-operative Credit Association with limited liability is hereby established at . . . . under the name of the People's Co-operative Bank of . . . .

The name of People's Co-operative Banks and the qualification of limited ("Società Anonima") must be expressed in all contracts which it may enter into, as well as in all letters, publications, or notices referring to it. (Commercial Code, article 104.)

2. Its object is to provide credit to its members by means of co-operation and saving.

3. It is established for a period of 99 years from the date of its constitution, with power to prolong its existence.

4. It has its domicile at . . . . in the place where its office is established. It may institute branch offices and agencies within the territory of the province, and the adjacent provinces, by decision of the general assembly of members.

The regulations for the institution and management of the branches shall be framed with a view to facilitate their conversion into independent banks.

Title II.—Capital of the Association.

5. The capital of the association shall consist of—

(*a*) The shares subscribed by the members, the value of each share being — lire;

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* Extract from Commercial No. 42 of 1887. These are the articles of a popular bank of the system of Signor Luzzatti, and have been translated for the above Foreign office report from Signor Levi's 'Manual for Popular Banks.'

(*b*) The reserve fund;
(*c*) Such special funds as may be created for particular purposes.

Although the Commercial Code fixes 100 lire as the maximum limit of nominal value for the shares of co-operative societies, the association of Italian People's Banks considers that they ought not to exceed 50 lire.

6. The bank may, in order to extend its operations, contract loans and accept deposits of money, whether interest-bearing or without interest, on the security of its social capital.

Title III.—Of Members.

7. Any person desiring to join the association must present a written application to the board of directors, stating his willingness to submit to the obligations resulting from the constitution, and from the bye-laws and decisions of the association.

In cases of the transfer of shares from one person to another the application must be made by the heir or acquirer, even though he may be already a member.

The application of any person not yet admitted to membership must be countersigned by two members, as witnesses to the character of the applicant.

8. Co-operative mutual benefit societies and corporate bodies may be enrolled in the association with the same rights and obligations as any other member, but their delegates shall not be eligible to hold office in the association.

If any banks should think proper to permit such representatives to hold office, they ought not to be any persons except managers or directors in the societies or corporate bodies in question.

9. Persons under legal or mental disability ("interdetti, inabilitate") and bankrupts are excluded from the association; nor can they own any shares upon transfer, unless in consequence of an adjudication by a court of law. Such adjudication, however, shall not entitle them to any rights beyond participation in the profits.

Any shares which may come to the persons in question, either by inheritance or through decision of a court of law, must be disposed of in the manner laid down in article 15, paragraph 2.

Although minors are equally disqualified from having direct transactions with the bank, yet as many of the banks have already minors enrolled among their members, and as it may be at once an advantage and a compliment to the banks that the purchase of their shares should be deemed a safe investment for money belonging to minors, it has been thought best not to provide for their exclusion, but to leave the question for the banks to settle at their own discretion.

10. The decision as to the acceptance or rejection of the applications, whether of candidates for admission or of members wishing to acquire fresh shares, shall rest with the board of directors. An appeal shall be allowed from their decisions to the committee of arbitrators.

11. If the application be granted, the new member, or the member acquiring fresh shares, must enter his name in the register of members, in accordance with article 226 of the Code of Commerce.

12. The new member is bound—
(1) To pay within three months, or by instalments of —lire, the entrance fee of—lire.
(2) To acquire at least one share.
(3) To hold himself answerable to the full amount of the shares subscribed by him for all obligations assumed by the association.

The amount of the entrance fee should be proportionate to the value of the share, taking into account the amount of capital paid up, and of the reserve fund. For a share of 50 lire, for instance, it would be 3 lire.

13. A member acquiring not more than a single share may pay for it by successive monthly instalments of not less than — lire.

The amount of each monthly instalment should be proportionate to the value of the shares, and to the particular circumstances of the bank. Thus, in a large bank, or one established in a wealthy and populous centre, the instalments might be fixed at 2 lire; in other cases at one lire.

14. Each member is entitled—
(1) To obtain credit within the limits, and in the manner laid down by the constitution.
(2) To vote at the general meeting, provided he has paid his entrance fee and at least half of one share, and has been registered as a member of the association not less than three months.
(3) To a part in the capital and profits of the association proportionate to the amount of his shares.

15. The board of directors may not assign more than . . shares to any one member.

In respect of any shares in excess of this number, which any member may have acquired by inheritance or through adjudication by a court of law, he shall only be entitled to his share of the profits of the association, and must take measures to dispose of them within a term of two years. Should the member fail to fulfil this obligation, the association may suspend the payment of dividends due to him on the shares, and also cause the shares to be sold in the manner laid down in article 30, holding the sum realised at the owner's disposal.

The number of shares which may be held by a single member is also proportionate to the value of the shares. The Code (article 224) fixes the maximum value of each share at 100 lire, and of the total amount which any one member may hold at 5,000 lire; if the shares are only of 50 lire a piece, the maximum to be allowed to a single member should be 2,500 lire, or if the shares are inferior it should be reduced in proportion.

16. The board of directors may expel a member from the association—
(1) For being in arrears with the payment of three instalments of the share subscribed by him without sufficient excuse.
(2) If he shall have compelled the association to enter into judicial proceedings to force him to fulfil the obligation contracted by him with it.
(3) If he shall have incurred a criminal sentence for any offence or a police court sentence on account of an offence of bribery, forgery, theft or fraud.
(4) If he shall have committed an act considered dishonourable by the board.

An appeal shall be open from the board of directors to the committee of arbitration.

17. In the cases mentioned in paragraphs 2, 3, and 4 of the preceding article, the association is bound to refund to the member the value of his shares in accordance with the terms of article 24.

18. In the event of a member's death, the association may compel his heir to sell out, in the manner prescribed by article 15, the shares which he has inherited, unless he is already a member, or has applied to be entered as a member, and been accepted in accordance with the terms of article 10.

19. If a share be transmitted by inheritance to several persons, the association shall not be bound to register or recognise the transfer until the designation and admission (as a member) of a single owner.

Associations desirous of allowing the withdrawal of members may here insert the following articles:—

"Article . . . . Any member publicly declaring his intention of withdrawing from the association shall likewise cease to belong to it, upon complying with the provisions of the law, and if the directors consent thereto.

"The member withdrawing shall be repaid the principal of his shares, but not the amount assigned to the reserve fund. He may collect his profits, but must a part of the principal to meet the losses of the association: the profits and losses to be calculated according to the balance sheet for the year in which he withdraws.

"The permission to members to withdraw from the association with the amount of their shares is not free from danger, and small banks, or those which for special reasons consider such a permission likely to injure the bank, or endanger its existence, will not mention it in their constitutions."

(See articles 220, 226, and 227 of the Code of Commerce.)

20. The shares are nominative and personal; they may not be sold or pledged in any way without the consent of the board of directors.

The board may grant advances upon the security of the shares, which are pledged in favour of the association for all liabilities, of whatever kind, incurred by the member to the association.

But if the value of the shares owned by the member shall exceed the amount of the claims of the association against him, he may dispose of the surplus.

21. If a member fail to meet his obligations towards the association, the latter may cause his shares to be sold in the manner provided in article 39, and may even issue a duplicate certificate whenever the original share certificate shall not have been deposited in its hands.

22. A member is entitled to a share in the dividends, beginning from the quarter (reckoned according to the solar year) following that in which he shall have completed the payment of his share.

But instalments paid in under article 12 shall, as soon as they amount to one-fourth the value of a share, bear the highest rate of interest allowed by the bank on deposits placed in its care.

Such interest shall be deducted from the balance still due by the member upon the price of his share.

23. Upon full payment of the amount of his share, as well as of the entrance fee and any other expenses involved, the member shall receive a certificate representing the share, which shall state the amount of his participation in the patrimony of the association.

The provisions affecting the form of the certificate are laid down in articles 165 and 222 of the Commercial Code.

24. At the beginning of each year the board of directors shall determine the value of new shares in accordance with the amount of the capital subscribed and reserve fund.

Title IV.—Operations of the Association.

25. The association undertakes—

(a) The granting of loans and the discounting of bills of exchange, warrants, specifications of work undertaken, accounts (or bills for goods), orders of public departments, and treasury, provincial, and municipal bonds.

(b) The granting of loans upon trust ("Prestiti sull' onore").

(c) Operations of credit in behalf of agriculture.

(d) The granting of pecuniary aid on the security of public stocks.

(e) The opening of accounts current upon the guarantee of two or more persons in good standing.

(f) The receipt of deposits in cash.

(g) "Servizio di Cassa," *i.e.*, collections and payments, whether in behalf of members or of non-members.

(h) The receipt of valuables (securities) for safe keeping, or for the collection of the interest thereon.

(i) The management without charge of the funds belonging to other co-operative or mutual benefit associations.

The operations mentioned under the headings, (a), (c), and (e) can only be undertaken in behalf of members.

The more important banks may also open for their members accounts current upon guarantee of public securities. This is a perfectly safe operation, but was omitted from the present constitution, because it usually assumes a certain importance, and must, in order to be of any use, extend beyond the limits laid down for accounts current upon personal guarantee, and can therefore only be undertaken by banks which have attained to a certain standing and possess considerable capital.

Again, the case of the funds at the disposal of the bank being so abundant that the ordinary operations mentioned in article 25 cannot suffice for their employment has not been considered in the present Act. It is only when the funds of the bank, and those entrusted to it, become so considerable that the investments can no longer keep pace with the deposits, that the bank can properly amend its constitution by inserting, at the end of Title IV, the following articles:—

Article . . . . The sums remaining in excess of the ordinary operations shall be employed in accordance with special regulations:—

1. In discounting the bills of exchange of co-operative associations, credit institutions, persons or firms of established solvency, even though they be not members, provided the documents in question bear at least two signatures and be issued for a term not exceeding six months.
2. In loans upon security of provincial, municipal, or industrial bonds.
3. In advances upon security of goods.
4. In loans upon mortgage.

5. In the purchase of provincial or communal bonds, and of securities guaranteed by provinces, communes, societies, and other corporate bodies, as well as of obligations issued by people's banks for the purpose of promoting credit to agriculture.

Article . . . . The amount of credit to be granted in the form of discount of bills of exchange shall never exceed, in the case of any person or firm, the amount previously determined by the committee of the "castelletto" mentioned in article . . In the case of societies, the credit allowed shall not exceed one-fourth of the paid-up capital.

But where real security is given, the amount of credit allowed may be increased by a sum equal to four-fifths of the value of the said security.

Article . . . . The sum to be employed in loans on mortgage shall never exceed one-fourth of the social capital, and the lands mortgaged must be situated in the province in which the association has its seat, and also be free from other mortgages, and of a value at least double the amount to be advanced.

Article . . . . The loans must not be for a period exceeding 10 years, and those shall have preference which are intended to promote works of public utility, or the well-being of the working classes.

Article . . . The general assembly of members shall determine upon security of what goods advances may be granted.

26. In the case of loans, discounts, operations of credit to agriculture, and advances (on pledge), those for the smallest amounts shall have the preference and whenever the bank is unable to accede to all the applications made to it, the preference shall be given to the oldest members, and to such as are also members of other co-operative or mutual benefit societies, and are not in arrears.

27. The association binds itself not to undertake any transactions of a gambling nature, and not to employ the sums entrusted to it as deposits in transactions extending over a long period, or in the purchase of real property, unless for the purpose of recovering a debt, or as a site for its offices.

When there is a superabundance of funds the board of directors shall, after consulting the committee of control, be authorised to employ, in the purchase of public securities issued or guaranteed by the State, or of debentures of land mortgage companies ("cartelle fondiarie"), a sum in no case exceeding one-half of the capital and reserve fund.

The board of directors is empowered, in accordance with the requirements of the association, to dispose of or pledge the bills of exchange held by it, and to purchase treasury bonds, and keep funds available in the hands of credit institutions and savings banks of approved solidity.

The last paragraph may appear superfluous, but it has been maintained for the sake of greater clearness, and for the protection of the directors, to whom the members must concede powers in proportion to the confidence felt in them.

A.—*Loans and Discounts.*

28. In order to apply for a loan or discount a member must—

(1) Have paid up at least one-half of the value of one share.

(2) He must not have any debt due either to the association or to his own sureties on account of any previous loan or discount obtained from the association.

(3) He must offer, according to circumstances, guarantees of moral and material for the exact fulfilment of the obligations which he assumes.

29. Loans may be granted to members, provided they do not exceed double the amount paid up by them on their shares.

But these loans shall in no case exceed the sum of . . . . lire over and above the amount paid up by the member, and shall not exceed one-third of the capital of the association.

Since any single member may hold, according to the Code of Commerce, 5,000 lire, and even according to this constitution 2,500 lire, it is found necessary to fix a maximum for loans, independently of the number of shares which the member holds.

30. The amount of the loans, referred to in the preceding article, must be stated in form of a bill of exchange, and be granted for a term not exceeding six months. A prolongation for a term not exceeding four months may, however, be granted upon punctual repayment of at least one-fourth of the original loan.

It may seem unnecessarily severe only to grant one prolongation of four months, but considerable strictness is required in order to prevent the stagnation of the capital for too long a term. Such banks as may, from special circumstances, find greater indulgence necessary, had better keep the term of six months for the original loan, and grant two renewals, each for three months, provided at each renewal one-fourth of the original sum be refunded.

31. Bills of exchange presented for discount must bear at least two signatures of persons well known and in good standing, and be drawn for a term not exceeding six months from the date of presentation.

The signature of the member presenting the bill is included in counting the signatures.

In the case of 'warrants' the goods deposited may be accepted in place of a second signature.

32. Specifications of work undertaken and statements of account presented for discount must bear the endorsement of the person liable for payment, and his engagement not to pay except through the bank.

33. No member shall be allowed credit at any one time, whether in the form of loan or discount or of account current, for a sum exceeding that which the general meeting shall settle as a limit every year upon the proposal of the board of directors.

The board of directors, acting with the controllers and the discount committee, shall decide the maximum of credit to which each member is entitled, within the limits above laid down, by means of the system of the "castelletto," which must be kept with the greatest accuracy, and revised once in six months at least. In order to form a quorum of the commission of the "castelletto" there must be present at least one controller, together with half of the directors and of the discount committee. The president of the bank, or his substitute, takes the chair in the commission. If the votes are equally divided, that view which he adopts is carried.

In banks where the duties of the discount committee are performed by the directors, the committee for drawing up the "castelletto" naturally consists of the controllers and directors, of whom three-quarters must be present to form a quorum.

The committee of the association of the Italian People's Banks, while aware that many persons of authority and important institutions disapprove of the "castelletto," nevertheless think it right to recommend its adoption as a measure of prudence.

B.—*Loans on Trust* ('Prestiti sull' Onore').

34. The assembly of members shall determine, each year, the amount to be employed in loans on trust, subject to the special regulations regarding them.

C.—*Operations of Credit to Agriculture.*

35. The association may (1) advance money on the security of agricultural produce; (2) discount to landowners the amount of their rents, entering into their rights under the lease in relation to their tenants; (3) make advances to farmers upon the security of their stored produce and crops, whether standing or harvested, provided the landlord shall have waived his rights in favour of the association.

36. These transactions, as well as loans and discounts made to farmers under the ordinary rules, may be for longer periods than those allowed for other transactions.

Every year the board of directors, in accord with the committee of control, shall determine the maximum term for transactions of credit to agriculture, and the maximum amount which may be employed in such transactions. In no case, however, shall the maximum term exceed one year, or the maximum amount exceed the sum of half the capital and reserve fund, and one-third of the deposits for a fixed term.

D.—*Advances upon Guarantee.*

37. The association may make advances upon the security of public stocks issued or guaranteed by the State, or of the debentures of land mortgage companies, for an amount not exceeding four-fifths of their value.

38. Such advances shall not be for a longer term than six months, but they may be renewed.

39. Should the stocks left as security fall in value to the extent of not less than 10 per cent., the person to whom the advance has been made shall refund a portion of it, or furnish additional security.

Should the sum advanced not be repaid when it falls due, or should the debtor, in case of depreciation of the security, decline to comply with the provisions of the preceding paragraph, the association may, without previous legal or judicial proceedings, sell the stocks, &c., received as security through a public broker or notary, up to the full amount of the debt, including principal, interest and expenses.

These conditions must be previously accepted by the person applying for the advance, in the certificate of debt, or even by a separate deed. Such certificate is not required in the case of liabilities guaranteed solely by the member's shares.

E.—*Accounts Current upon Guarantee.*

40. The longest term for an account current is fixed at two years. The maximum amount of such credits opened must not exceed the . . . . th part of the sum of the bank's paid-up capital and reserve fund.

The maximum amount which may be drawn in account current by any one member may not exceed the . . . th part of the whole amount of credit to which he may be entitled under the provisions of paragraph 1 of article 33.

These proportions must vary according to the circumstances of the banks themselves.

F.—*Deposits of Cash.*

41. Cash deposits may be made, subject to withdrawal by means of cheques, or savings pass-books, whether payable to order or to bearer, or through interest-bearing bonds issued for a fixed term.

The interest accruing upon deposits, whether of savings or in account current, is added at the end of December in each year to the sum of the principal.

The provisions relating to the various kinds of deposits shall be laid down in special regulations.

G.—*Banking Facilities* ('Servizio di Cassa').

42. The association may undertake on behalf of its members the payment and collection of money, without charge, and it may also issue cheques on other places within the kingdom, and receive bills of exchange to cash them, either for members or non-members, upon payment of the expenses and the ordinary market commission.

The general assembly of members may authorise the board of directors, after consultation with the control committee, to undertake the business of collection in those communes where the bank has its office or branches, and also the periodical payment of taxes in behalf of such members who, having a sufficient balance to their credit, shall expressly make application for the purpose.

These transactions to be subject to special regulations, to be proposed by the directors and ratified by the general assembly.

H.—*Deposits for Safe-keeping and for Administration.*

43. The association may receive in deposit for safe-keeping bonds, documents, or valuables, on payment of a commission to be fixed by the board of directors.

44. The association is answerable for the safety of the articles deposited, except in cases of "force majeure"; but only for the value expressly assigned to them by the depositor.

45. The association may undertake the administration of securities payable within the kingdom, providing for the collection of the interest or dividends due thereon and for the repayment of the bonds drawn, placing the sums thus collected to the depositor's credit in account current.

Title V.—Balance Sheet, Profits and their Division, and Reserve Fund.

46. The balance sheet shall show the real capital of the association, the respective amounts of payments made on account of shares and of payments in arrear, and shall manifest plainly and truly the actual amount of profits realised and losses incurred.

47. The profits shall be distributed as follows:—

(1) 70 per cent. to the members of the association, in proportion to the number of shares owned by them.
(2) 20 per cent. to the reserve fund.
(3) 10 per cent. placed at the disposal of the board of directors, to be distributed among the officials of the bank, or to be devoted to the encouragement of education and provident charities. Any portion of the sum which the board do not apply to such purposes shall return to the reserve fund, even though that fund may have reached to the full amount provided by the constitution.

48. Out of the portion of profits assigned to the servants of the bank, a part may be retained in order to establish a provident fund, or a pension fund, subject to regulations to be approved by the directors.

49. The reserve fund shall consist of—

(1) A sum annually taken from the business profits, as stated in article 47.
(2) The entrance fees of members.
(3) The difference between the nominal value of each share and the amount fixed each year (in accordance with article 24) for the price of new shares.
(4) Accidental profits.

50. Whenever the reserve fund shall equal half of the capital of the association, the share of the profits previously assigned to it shall be divided among the members.

Signor Levi suggests substituting for this:—"The reserve fund shall no longer be increased by the share of the profits assigned to it, after it amounts to half the share capital"; and adding an article in the following terms:—

"A portion of the sum of 10 per cent. of the profits, placed at the directors' disposal, shall be assigned, in accordance with the society's regulations, to increasing the interest upon small deposits of savings.

"To this same purpose shall be devoted (by decision of the general meeting, upon proposal by the directors) all or part of the sum of 20 per cent. assigned to the reserve fund, whenever that fund shall amount to half the share capital."

Should the reserve fund again fall below half the capital, the portion of the profits above referred to shall again be assigned to it.

Title VI.—Organs of the Association.

51. These are—

(1) The general assembly of members.
(2) The board of directors ("amministratori").
(3) The business manager, and the necessary clerks and employés.
(4) The committee of control ("sindaci").
(5) The discount committee.
(6) The committee of arbitration ("probiviri").

1. *Assemblies.*

52. The general assemblies of the members are either ordinary or extraordinary.

When lawfully constituted they represent all the members, and may decide all questions assigned to them by the constitution of the society.

53. The ordinary general meeting shall take place once a year, not later than the middle of March.

At this meeting—

(1) The report and balance sheet for the preceding year shall be presented for approval.
(2) The officers of the association shall be elected for the current year.
(3) Any other matters within the competency of the general assembly shall be discussed, provided they are placed on the order of the day, either by decision of the board of directors, or at the request of the committee of control, or of at least . . . . members.

Such request on the part of members must be made in writing to the board of directors not later than the middle of January.

The meeting of the general assembly is fixed for the first half of March, because the balance sheet must be in the hands of the committee of control at least one month before the meeting.

Some banks hold two assemblies—one in December to elect officers, the other in February to examine the balance sheet.

This frequent summoning of the assembly may cause inconvenience to the managers, and may further serve as an excuse for a scanty attendance of members.

The number of members necessary to bring a question before the assembly must vary according to the importance of the bank.

54. Extraordinary meetings may be summoned at the discretion of the board of directors, or upon the request of the committee of control, or of . . . . members (or of one-tenth of the total number of members when there are not more than 500.)

55. The board of directors shall summon meetings of the assembly by a notice inserted in the judicial advertiser of the province, and by bills posted at least 15 days in advance, as well as in any other ways which the board may think fit.

All other Acts of the association shall be published in the judicial advertiser.

The notice shall mention what questions are placed on the order of the day, and shall further state the date of a possible adjournment.

56. One-fifth of the members form a quorum of the general assembly. Should this number fail to appear, the meeting shall stand adjourned for a week; the adjourned meeting shall be considered

lawfully constituted, whatever be the number of members present, and it shall be duly qualified to decide any of the questions on the order of the day of the original meeting.

57. The decisions shall be by an absolute majority. In the event of an even division the motion shall be considered lost. Secret ballotting shall be resorted to in personal questions, or upon the request of 20 members.

Directors may not vote upon the discussion of the balance sheet, or in matters relating to their responsibility.

58. The chairman of the board of directors shall preside at the meetings, unless the assembly, by a special decision (which may be come to by open voting), shall appoint another member to preside.

In dealing with the approval of the balance sheet, or with questions affecting the directors' responsibility, the assembly may appoint another member to preside.

In the chairman's absence the deputy chairman shall preside, and if he also should be absent one of the directors chosen by the board shall preside.

The President shall nominate the Secretary and the tellers from among the members.

59. When the business upon the order of the day is not finished in one sitting, the meeting may be adjourned to any time within a week by a simple declaration on the part of the president, without requiring further publication.

The adjourned meeting shall be legal, whatever the number of members present, provided only such questions are treated as have already been mentioned in the previous order of the day.

In accordance with the provisions of article 225 of the Commercial Code, the absence of any express stipulation as to representation of members by proxy excludes such representation.

2. *Board of Directors.*

60. The board shall consist of a chairman, a deputy chairman, and . . . directors, elected for three years and re-eligible. One-third of the board shall be renewed each year. During the first and second years of the bank's existence, the retiring directors shall be designated by lot; afterwards they shall retire according to the date of their election.

In case of a vacancy occurring, the rest of the board, together with the committee of control, shall proceed to fill up the vacancy pending the next general assembly. Two-thirds of the whole body must attend for this purpose, and the voting shall be by an absolute majority.

One of the directors shall act as secretary, unless a secretary be appointed from outside the board.

The number of directors should be an uneven one, and not less than five, without counting the chairman and deputy chairman.

The original draft constitution proposed that the directors should not be re-eligible after two terms of office, but such a provision was deemed inconvenient, especially for small banks, with only a limited number of members fitted to undertake the office.

61. The duties of the directors are unpaid; they are exempted from any payment of caution money, and by accepting office do not assume any responsibilities beyond those stated in the Commercial Code.

62. The chairman (and the deputy chairman when acting in his stead) is precluded from contracting any personal liabilities towards the bank.

Personal obligations are such as are guaranteed merely by the signature of the borrower and his sureties, as distinguished from real obligations where the guarantee is some material object.

Some of the banks exclude all the directors from obtaining credit; others also, while excluding the chairman and deputy chairman absolutely, allow the other directors, as well as the controllers, to incur personal obligations, but require additional guarantees, not taking their own signature into account on their bills.

63. The board of directors shall meet ordinarily once a fortnight, one-half of the board to form a quorum.

64. The voting may be either open or by ballot. The latter mode must be used whenever expressly demanded, even if only by a single director or member of the committee of control; as also when personal matters, or questions in which some of the members of the board may be interested, directly or indirectly, are under discussion.

Questions are decided by a simple majority.

In open votes, whenever the division is even, the side on which the chairman votes shall carry the day.

In ballots an equal division shall involve the loss of the motion.

65. The meetings of the board shall be presided over by the chairman, and if he be absent, or unable to preside, by the deputy chairman. In the absence of the latter, the chairman may appoint one of the members of the board to act as president.

66. The board of directors shall—

(1) Fix the expenses of management.
(2) Draw up the balance sheets and propose the manner of distributing the profits.
(3) Settle and alter the rates of interest to be charged and allowed, as well as of the commissions to be charged.
(4) Draw up all regulations or bye-laws.
(5) Perform all acts connected with the administration which are not by this act expressly assigned to the general assembly, or to some other organ of the association.

The board of directors may, for the transaction and settlement of special business, and for the performance of particular duties, delegate its powers to one or more of its own members, or to the officials of the bank.

67. The Acts of the board shall be signed by the chairman or his substitute, and by the secretary.

68. The execution of the decisions of the board, whenever not delegated to one or more of the directors, shall be entrusted to the business manager.

In accordance with the provisions of the regulations, the manager's action shall be supervised by one of the directors appointed in turn to assist him in the various duties assigned to him.

3. *Business Manager and Officials.*

69. For the appointment or removal of the business manager at least three-quarters of the board of directors must be present, and the decision must be made by a majority of at least three-quarters of those present.

70. The manager, under the immediate supervision and dependence of the board of directors, and in accordance with special regulations, shall represent the association in dealing with third parties and before the courts of law; he shall sign the correspondence, endorsements and other acts and documents affecting the association,* superintend the officials and the accounts, see to the publication of the monthly reports, possess a consultative vote at the meetings of the board of directors and of the committees of discount and of the "castelletto," and perform all acts for which he has received the authorization of the board of directors.

71. The cashier shall keep, from day to day, and with perfect clearness, the books of receipts and expenditure, and shall give every aid to all examinations by the director on duty, by the committee of control, or by the manager, furnishing all information which they may apply for.

72. The manager and the cashier shall deposit, as caution money, such amounts as the board of directors may decide.

73. In case of the illness, absence, or removal of the manager or cashier, their duties shall be performed by one of the directors, unless the board of directors shall decide to entrust such duties to some other persons, defining, according to circumstances, their powers and responsibilities.

74. The officials shall be answerable to the board of directors, which shall appoint, suspend, or dismiss them according to the rules, and in the cases laid down in the regulations.

75. The officials must, upon their appointment, enrol themselves as members of the bank, and pay up the full amount of the shares subscribed by them.

The officials may not incur any personal liabilities towards the association.†

4. *Committee of Control (Sindaci).*

76. The controllers shall be five in number—three effective and two substitutes. Their duties are unpaid.

77. The controllers shall see to the strict observance of the constitution, regulations, and decisions of the association, and shall perform all the duties assigned to them by article 184 of the Commercial Code.

Article 184 of the Code of Commerce may be summed up as assigning to the "Sindaci" the duty of auditing and reporting on the annual balance sheet, and exercising a constant and effective supervision over the finances and administration of the society.

They may take weekly turns of duty, in accordance with the rules laid down in the regulations.

The relations and connections of directors, to the fourth degree of consanguinity and affinity, are ineligible to the office of controller.

5. *Committee of Discount.*

78. The committee of discount shall consist of the board of directors, and of . . . . members, elected by ballot in the general assembly; they remain in office two years, are re-eligible, and have no claim to any remuneration.

The general assembly may also delegate their election to a commission of . members, elected by a simple majority.

The number of the members of the discount committee and of those of the commission chosen for their selection must depend on the importance of the bank.

Some banks have adopted other modes of selection, but the above is the one most generally adopted, and which, in most instances, best fulfils the objects of the discount committee.

In some cases, however, local or other circumstances may require a different course. The following may then be substituted: "The board of directors shall, every quarter, nominate four members to form the discount committee, together with the bank chairman or his substitute."

In some banks the duties of the discount committee are performed directly by the board of directors.

79. The members of the discount committee shall perform the duties of a discount commission, two each week, jointly with two of the directors, according to a list drawn up by the bank chairman. One of the two directors shall preside.

80. Decisions shall be taken by a majority; in case of an even division, the application shall be rejected.

The members of the discount commission shall be precluded from presenting bills of exchange for discount during the week when they are on duty, and must abstain from voting upon any questions in which they are interested directly or indirectly.

81. The voting may either be open or by ballot; votes respecting transactions proposed by directors or members of the discount committee must always be taken by ballot, and such motions shall not be considered carried unless supported by at least three votes.

82. No loan can be granted, nor any bill of exchange discounted, without the previous approval of the discount commission.

The manager and other officials shall be bound to furnish to the commission all the information it may apply for.

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* The fear lest the duty of attending in turn at the bank should prove too burdensome in small institutions has caused the right of signing for the society to be given to the business manager by himself. Signor Levi deems such a course unsafe, and considers that the signature of one of the directors should be required in addition; he would therefore substitute for the words "he shall sign the correspondence, &c. . . ." the phrase, "he shall, jointly with one of the directors, be empowered to sign for the association"; but in order to facilitate the performance of certain acts, he would add at the end of article 70, "the board of directors may further authorize the separate signature of certain specified documents in behalf of the association by the director or other officials."

† See Note on article 62.

83. The administration of the bank is not bound to explain its refusal of credit to the applicant, nor may any question be put in the general assembly as to the motives of such a refusal; the member whose application for credit shall have been refused can only appeal to the committee of arbitrators, which shall settle the question after hearing the bank manager.

6. *Committee of Arbitrators.*

84. The committee of arbitrators shall consist of three members elected by the general assembly. They shall remain in office three years, be re-eligible, and have no claim to any remuneration.

The arbitrators shall decide without appeal all questions arising under articles 10, 16, and 83 of the present articles, as well as such questions as may be submitted to them by special regulations or decisions of the general assembly.

They shall further settle any disputes arising between members of the bank and its administration when referred to them by common consent of both parties.

85. The committee shall select one of its members to preside, who shall summon it when required.

The board of directors and bank manager shall be bound to furnish to the arbitrators any information or explanation for which they may apply.

86. Except in the cases referred to in article 10, the arbitrators shall act in the capacity of friendly mediators.

Title VII.—Concerning the Cancelling of Securities, &c.

87. In cases of loss, theft, or destruction of share certificates, policies of the deposit of securities, pass-books for accounts current or savings deposits made personal, orders to pay receipts or other valuable documents, duplicates may be issued in the manner and subject to the safe-guards enumerated below.

88. The person reporting the loss of any security and applying for a duplicate must give a minute and precise description of the lost document.

89. The board of directors, upon receipt of such application, shall suspend, for a period to be determined in each case, the payment or restitution of the value represented by the lost document.

90. At the expiration of the period fixed, without any objections on the part of other persons, or when such objections have been either rejected or withdrawn, the board shall declare the lost documents to be cancelled, and shall issue a duplicate in their place.

91. The board may excuse the applicant from the formalities mentioned above, and issue the duplicate upon security, real or personal.

Title VIII.—Of the Dissolution of the Association.

92. The association may be dissolved, even before the term fixed by this Act, upon the loss of not less than half of the capital paid up at the time of the previous yearly balance sheet, or by the vote of a majority of at least two-thirds in a meeting of the general assembly, convened for that express purpose, at which not less than one-third of the members must be present.

In case of dissolution, the assembly shall determine the mode of liquidation and appoint liquidators.

The distribution of the sum resulting from the liquidation shall be made in proportion to the members' shares in the patrimony of the association.

Title IX.—Miscellaneous Provisions.

93. The assembly may make amendments or additions to this Act, provided these are approved by the absolute number of members, and majority required in case of the dissolution of the association.

Should one-third of the members not be present at the meeting, a second one shall be summoned at an interval of 15 days; the decisions of this meeting shall be valid, irrespective of the number of members present, provided they are carried by a majority of three-quarters of those present.

94. The association shall be considered to be constituted as soon as . . . . shares have been subscribed, and . . . . lire paid up.

95. A copy of the general regulations approved by the board of directors must always be accessible to the members.

MODEL BUSINESS RULES OF A CO-OPERATIVE POPULAR BANK (ITALY): SYSTEM OF SIGNOR LUZZATTI.*

Chapter I.—Members and Shares.

(Sections 1 to 19 deal with the admission, and expulsion of members, their subscriptions for shares, and the transfer of such shares. Co-operative societies, which are associations of persons rather than

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* Chiefly translated from the manual of Signor Levi, with additions, &c., from the rules of the Padua Popular Bank as contained in Signor Luigi Rodino's 'Manual of Co-operative Society Precedents' (Barbera Manual Series), 1893.

These rules are supplementary to the articles, and deal in great detail with the methods to be adopted in order to carry out the articles. Signor Levi's manual is largely an expansion of and commentary on the articles and rules of business of popular banks.

Full translation is only given of such rules as seem suggestive for work in India.

of capital, demand great caution in the persons whom they admit, both for the safety of their business, and in order to the stimulation of non-members towards the development of those qualities which entitle a man to membership and to the benefits derivable therefrom. Hence not only is the admission of members but also the transfer of shares rigidly safe-guarded, for shares can only be held by members, so that to allow transfer is to admit a member: transfer can therefore only be effected in due form and with the prior consent of the directors. Every share is evidenced by a formal certificate taken from a numbered stub with counterfoil containing a description of the member and signed by the directors and the accountant: on withdrawal the withdrawing member must sign the stub in token of withdrawal.

• Sections 20 to 24 deal with the issue of duplicate certificates and with the payment of dividends on shares.)

Chapter II.—Business of the Bank.

SECTION I.

(Rules 27 to 47 relate to the grant of ordinary loans and discounts. All ordinary loans of whatever term are issued upon bills of three or six months given to the borrower; interest is taken in advance on the discount of the bill (31); "a request for renewal must be presented at least four days prior to the date of repayment, and must be accompanied by repayment of one-fourth of the debt." (33) The bank provides *gratis* printed forms of request for loans; these are filed in a book which is submitted to the discount committee with all necessary information by the manager: on acceptance the borrower executes a bill for the sum granted. The remaining rules deal with office details.)

SECTION II.—LOANS ON TRUST.*

The bank grants loans upon trust to members of at least (two) years' standing in any one of the mutual benefit societies of the city,† provided (1) that they are not members of the bank; (2) that they have a good reputation for honesty and industry; (3) that they are engaged in some business or industry; (4) that they know how to read and write.

Every year the general meeting, upon proposals made by the directors:—

(1) decides the maximum amount which may be granted in loans upon trust; (2) assigns from the profits of the bank a sum for the formation and increase of an insurance fund which shall recoup the bank for any final loss on such loans.‡

A candidate for one of such loans must make his request in writing on a printed form supplied by the bank, giving all details as to his status, residence, the purpose for which he requires the loan, &c.

The demand must be furnished with a declaration by the president of the benefit society to which the candidate belongs (or by the patrons) showing (1) the status and position of the candidate; (2) the date of his entry into the benefit society; (3) that he has been regular in his subscriptions thereto.

Loans will be granted upon a bill signed by the candidate, and may not exceed £4 each.

Repayment must be made by (weekly) instalments of not less than one lira (10*d.*) on loans not exceeding 30 lire, and not less than (two) lire on loans exceeding that sum.

No second loan will be granted to a borrower who has not been punctual in his repayments.

Except in special cases no loan will be granted till the expiry of at least (two) months from repayment of a prior loan: if the borrower has had (three) loans, at least (one) year must elapse before the grant of another.

Any borrower who fails to repay his dues in the prescribed manner will lose all future benefits, and the directors must acquaint the society to which he belongs (or the patrons) with the view of coming to some arrangement to obtain the eventual repayment of the balance due.

A candidate obtaining a loan must pay interest in advance at the rate of (2) per cent. per annum.§

For the management of this business and of the insurance fund a special administrative committee of (3) persons shall be annually elected by ballot from amongst a committee consisting of representatives from the several benefit societies and from the directors of the bank.

For the examination of individual loans there shall be a special loans committee consisting of (2) directors of the bank and (3) representatives of the benefit societies. Four members of the last-named committee must meet every (15) days at the bank office with a director as chairman for the examination of requests for such loans.

At the end of each year the special administrative committee shall report through the directors to the general meeting upon the management of this branch of business.

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* From the rules of the Padua bank as contained in Signor L. Rodino's 'Manual of Precedents.'

† Some banks, *e.g.*, Bologna, do not make this condition: they will admit any poor person to a loan on trust who satisfies the four conditions which follow in the rule, provided that they are recommended by two 'patrons' who must be well known men of good local standing, who are personally acquainted with the candidate, and will vouch for his character and the use he intends to make of the loan: these patrons have no material responsibility in case of failure of the borrower to pay, but are morally bound to assist the bank by stimulating and encouraging and looking after the borrower. Many of these patrons are, however, members, directors, &c., of the local benefit societies. A patron whose candidate has failed in his repayments, is usually refused subsequently as patron.

‡ It is usual only to grant these loans when the bank has attained an established position, and can, without injury to the members, set aside a sum, usually from profits, for the purpose.

§ Some banks, *e.g.*, Bologna, charge no interest or commission of any sort on these loans. In the Padua bank rules entered in Signor Levi's Manual (1886) the following are found:—

The bank upon each loan credits itself with interest at 4 per cent. per annum, which is debited to the insurance fund (fondo di previdente beneficenza) which is a fund created by the bank from profits to recoup any losses.

The borrower pays an actual interest of 2 per cent. per annum which is placed to his credit in a separate register: when such interest shall have accumulated up to the amount of a share in the bank, he shall be credited with a share (and becomes an ordinary member of the bank).

Occasionally the bank will issue a share of the value of £2, with all the rights and duties of ordinary membership.

Persons who have thus obtained shares can only obtain subsequent loans according to the ordinary rules of the bank.

SECTION III.—AGRICULTURAL CREDIT.*

48. The bank will make advances on pledge of agricultural produce (grain, forage, &c.) deposited in the barns of the bank or of persons accepted by them.

49. (The value of the produce must be duly verified, and a promissory note executed by the borrower, against a receipt given by the bank for the goods. The borrower must pay the cost of valuation, storage, insurance, &c.).

* * * * *

52. Loans upon the mortgage of standing crops (*Anglicé* bills of sale) are made upon ordinary bills under the general rules for loans, the condition of actual pledge being omitted. The borrower must prove that he is insured against the risks of fire and hail.

53. Loans will only be granted after due valuation by experts, the cost of which must be borne by the borrower.

54. Operations under this section must be kept entirely separate from other operations in the bank's accounts, and must be expressly shown and reported on in the monthly returns and annual statements.

SECTION IV.

(Relates to loans upon pledge of moveables).

SECTION V.—CASH CREDITS.

69. A member who desires to open a cash credit with the bank must present his application stating the proposed amount of the credit and the security which he offers. No one who is unable to read and write will be allowed to open a credit.

70. The application will be submitted to the discount committee which, after examination of the status and solvency of the candidate and of his sureties, will admit, modify, or reject his request.

71. Should the application be accepted, the candidate must present himself at the office with the persons tendered as sureties and deliver a bill of exchange † of an amount and term corresponding with those of the cash credit. The full amount without deduction of interest will then be placed at his disposal as a drawing account.

72. The holder of the credit will receive a pass-book and a cheque book; the former will contain entries of the credit amount, and of all drawings and in-payments: the latter serves for drawings.

73. The holder of the credit may draw up to nine-tenths of his credit either in one or several instalments; one-tenth is withheld by the bank as a guarantee for the interest and charges due on the advance. He is at liberty to pay in to the credit of his account any sums not exceeding his drawings: any excess will be transferred to ordinary deposit.

74. The directors may vary, according to circumstances and even before the expiry of the credit term, the rates of interest payable by and to the credit-holder.

Interest shall be calculated and paid up quarterly, and at the closure of the credit. Interest due by the credit-holder shall at each period be added to the amount at his debit: that due to him shall be placed to his credit. The credit-holder must give the bank an acquittance acknowledging the correctness of the account.

75. When the credit-holder shall not, during two successive quarters, have made any repayment on his account, the bank shall have the right to close the account, and may demand the immediate repayment of the whole amount drawn and of all charges, without waiting for the expiry of the term agreed upon.

76. All charges, stamp duties, &c., must be paid by the credit-holder at the opening of the credit. The pass-book and all unused cheques must be returned at the closure of the credit to the bank, which will then return the bill of exchange cancelled.

77. All rules relating to ordinary deposits in the matter of the currency of interest, to notice of drawings, to the form of pass-book and cheques and the signatures therein, are applicable to cash credits.

SECTION VI.—ORDINARY DEPOSITS IN ACCOUNT CURRENT.

88. A depositor may withdraw up to (£20) at sight, from (£20 to £40) at one day's notice (and so forth).

89. The bank reserves to itself the right to refuse deposits either in whole or in part; also to pay on demand any sum however large.

90. No depositor can draw in a single day, nor will the bank pay more than (£20) at sight, even though the cheques presented may bear different dates: nor shall any depositor draw at sight during the interval between notice of intention to draw and actual drawing, nor on the day of such drawing. Notice of only one drawing may be given on a single day, and during the currency of such notice no further notice may be given.

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* These rules are taken from Signor Levi's manual, and relate merely to special modes of granting loans to agriculturists. In the Padua rules the following is found:—

Operations in agricultural credit shall be conducted by the bank in conformity with the laws of 23rd January 1887, No. 4276, series 3, with its attendant regulations of the 4th May 1889, No. 2389, series 3, and with any special rules which may be laid down by the bank. This law and regulations will be found elsewhere in this appendix *s.v.* "Agricultural credit."

† Un vaglia cambiario; presumably the engagement of the borrower takes this form in order to enable the bank to re-discount his bill. In India, as in Scotland, the form of engagement would be a bond with sureties, or a promissory note in which principal and sureties jointly and severally engage themselves.

Savings Deposits.

94. The rate of interest on savings deposit shall be superior to that on ordinary deposits.

95. On the opening of an account the bank will provide the depositor with a pass-book, signed by a director, by the manager and by the cashier, and containing the chief rules governing such deposits. Each pass-book bears a number corresponding to that given to the account in the bank's registers. The depositor must pay the value of the book and of the stamp duty thereon.

96. Pass-books may be to bearer* or personal (al portatore o nominativi). On the cover must be entered clearly the name and address of the depositor when the pass-book is personal: or else a note that it is 'to bearer.'

97. The owner of a personal pass-book must write his signature in the bank's register of signatures as required in the case of accounts current.

98. Pass-books to bearer change hands by simple transfer: personal pass-books only by special transfer which must be notified to the bank in one of the following ways: (here follow several rules).

99. Personal pass-books may be specially charged† (vincolati); in such cases the nature and conditions of the charge (or encumbrance) must be expressly entered in red ink on the cover, as also in the bank's register (ledger).

100. Every entry in the pass-book of in-payments or withdrawals must be in letters and figures and signed by the book-keeper and cashier.‡

No in-payment will be received or withdrawal allowed without the production of the pass-book. Withdrawals on personal pass-books can only be made by the owner or his duly accredited agent; on pass-books to bearer they will be made to the person presenting the book, save in cases of patent irregularity or error.

101. Where a pass-book to bearer has been lost, stolen or destroyed, the holder should at once notify the bank which, should it see sufficient cause, will at once suspend all operations upon such account. But should such suspension not be confirmed within one week by receipt of a judicial order to the same effect, it will then cease, and the bank will be at liberty to pay to the holder.

Should a judicial order be received or proper security be given, the bank may issue a duplicate of the lost, &c., pass-book, bearing the same number as the original but expressly inscribed as a duplicate.

102. In-payments of less than (one) lira (10 *d.*) will not be received as deposits.

103. Only one pass-book can be granted to or operated on by a depositor.

104. Depositors can withdraw up to (£4) at sight, up to (£20) on (two) days' notice (and so forth). During the currency of the notice no sum can be withdrawn or further notice given by the depositor.

Petty Savings.

105. The rate of interest on petty savings deposits shall be higher than that on ordinary saving deposits.

Petty savings deposits shall be governed by the rules relating to ordinary savings except in so far as the following rules differ.

106. The pass-books of petty savings and ordinary savings deposits shall be separately numbered and have differently coloured covers.

107. Pass-books will be issued *gratis* by the bank.

108. In-payments of less than one penny (dieci centesimi) will not be received, nor will withdrawals of less than (one) lira be permitted.

No in-payment of more than (£4) shall be received on one account in any one day, nor more than (£40) in any one year, nor more than (£80) in all including interest credited thereto.

Should the account pass (£80) it shall be transmuted into an ordinary savings account.

109. A depositor may withdraw up to (£1) at sight, from (£1) to (£2) on two days' notice (and so forth).

No withdrawal at sight can be claimed as of right within one week of a previous payment.

Fixed-Term Deposits.

(The rules, 111–118, do not require translation, but it may be noted that deposit receipts must be taken from a stub with counterfoil both of which must contain full details of the transaction. The directors may also discount deposit receipts if the holder wishes for re-payment before due date.)

SECTION VII.—OTHER BANKING BUSINESS.

(Rules 119—142 do not need translation.)

CHAPTER III.—MANAGEMENT OF THE BANK.

(The only matters requiring notice are those relating to the work to be specially undertaken by individual directors and by the committee of supervision, to the castelletto (credit register), and to the arbitrators.

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* *See* chapter on Savings banks in Vol. I and the law in the present appendix.

† *See* chapter on Savings banks in Vol. I, page 205. These pass-books bear a special lien (vincolo) and can only be dealt with subject to that lien.

‡ The rules regarding the double check in English Trustee Savings banks are superior to these rules. *See* chapter on Savings banks in Vol. I and the section in this appendix.

Rules 155 to 160 provide that the directors shall irrespective of their collective work, each take periodical terms of office duty of (say) fifteen days each: during such period the director or directors on duty must examine and countersign all cash transactions whether of receipt or disbursement, must assist the chairman to examine requests for admission as members, must assist in examining the demands for loans, &c., and attend any meeting of the directors. This matter is of the highest importance, as it compels each director to be an active office bearer, fully acquainted with the affairs of the bank, while it prevents such affairs from falling into the hands of one or two persons as is so frequently the case in the Madras Nidhis. Similar rules will be found in the American Building Societies and in the English savings banks, where the 'double check,' viz., that of the actual directors or trustees and that of the office establishment, is insisted on.

All directors should be compelled, by the articles or rules of a bank, to take active service in all the affairs of the bank (*See* article 5 in the "Specimen Articles for a Village Bank" in Vol. I).

In the operations of very small banks, open perhaps only once in a week, the rules may not be of such importance, since the operations will be small and comparatively few, so that all or most of the directors should have personal knowledge of all the business and of every transaction. But many Nidhis already have offices which are open throughout the whole of every day, and have considerable and numerous transactions; for them the rules as to turns of duty are very necessary.

* * * * *

164. The duty of the committee of supervision (Sindaci) is to exercise supervision over the management of the bank in view to maintain the strict observance of the law and articles. For this purpose they must daily visit the bank, the duty of such inspections being delegated to each member of the committee by (fortnightly) turns: any such member may, however, inspect the office at any time even out of his turn.

This daily inspection must be rigidly maintained, every care being taken to avoid its omission in consequence of absence, &c.

165. The member on duty must visit the office at various hours, examine the current business, and the books, especially the day-book. He must satisfy himself that all operations are duly registered, and that the day-book is balanced with the other books: at the close of his turn of duty he must draw up a certificate of their accuracy.

166. The member on duty must, each month, compare and countersign for publication the abstract of the financial situation.

The annual balance sheet must be examined by the whole committee, who will draw up their report for the general meeting.

167. A minute book will be kept in which the members will enter any remarks or suggestions: this shall be kept in the custody of the chairman of the bank. Any notes relating to persons must be sent under seal.

168. No member on duty can obtain during such period any advance from the bank. (This is also the case as regards directors on duty.)

* * * * *

The Credit Register (Castelletto).

(Rules 179 to 186 relate to the preparation of this register; in small banks all the directors join with the committee of supervision in preparing this register, which must be revised every six months. The register shows the maximum amount of credit which may be granted, outside of material pledges or mortgages, to each member. The register must be kept secret, and every director, &c., is bound at once to give information of any such changes in the circumstances of a member as require an alteration of the register. In larger banks there is a special committee.

Rules 187 to 191 describe the procedure of the arbitrators, whose duties are mentioned in article 84 of the Model Articles for these banks. The present rules require that their enquiries shall be complete and their examination of evidence not necessarily confined to members of the bank: all the arbitrators must be present and must sign the minute book, which should contain accurate and full notes of their enquiry. The result must be communicated to the directors and to the parties concerned.

The remaining rules relate to the office establishment, &c.)

MODEL ARTICLES FOR A CO-OPERATIVE RURAL BANK (ITALY—SYSTEM WOLLEMBORG).

(These articles are, practically, those of the German (Raiffeisen) system on which they are modelled.

It need only be noted—

(1) that all loans of whatever duration are granted only by successive renewals of three months each, a practice which enables the bank to refuse renewal should the borrower have broken the terms of his contract: it also serves to encourage borrowers to repay their loan in whole or in part at each successive quarter;

(2) that arrangements are made to lend to tenants, in which case it is necessary for the bank to obtain from the landlord a statement that he consents to or recognizes the loan, and that he will not avail himself of the privilege granted by section 1958 of the Civil Code (section 1958 of the Civil Code relates to the right of the landlord to distrain for arrears of rent: his 'privilege' takes precedence of all other claims);

(3) that an express declaration is made (article 30) that it is the duty of the bank to promote all institutions likely to better, whether morally or materially, the condition of the inhabitants of the village, and to foster the foundation of co-operative associations for production, sale, and consumption, by granting loans or opening cash credits to persons undertaking

such enterprises. (This recalls the words of M. de Laveleye that the popular banks of Italy "everywhere form centres of economic and moral progress," and of the priest who declared that the village bank had done more for morality (*i.e.*, as regards industry, sobriety, &c.) than all his sermons;

(4) that there are no shares and no share capital. This was the original Raiffeisen principle, but the German law has now made shares and a share capital compulsory;

(5) that, consequently, there is no dividend to be paid, and the *whole* of the profits are carried to a reserve which forms the joint capital of the bank; this serves to cover any losses, and, after it increases to a sufficient sum, its annual proceeds may be used in any work of communal utility. No member has any individual right in the reserve, nor can it be divided by a vote of the general meeting; in case of dissolution it must be deposited as a trust in some secure bank, and its annual proceeds paid over to some local charity; the capital must remain intact until some new bank shall be formed similar to the one dissolved when it shall be handed over to the new bank.

This article can only be modified in a general meeting at which every member is present, a two-thirds majority sufficing for the alteration of other articles (articles 31 to 33);

(6) that the general assembly shall decide all disputes between members regarding the affairs of the bank and its rules, and, in default, three arbitrators, to be selected by the parties according to article 12 of the Code of Civil Procedure, shall finally decide the matter. The arbitrators may also act as conciliators.)

MODEL ARTICLES * FOR A GROUP OF POPULAR BANKS (ITALY).

1. The co-operative popular banks of (such and such a district) have united in a group † for the purpose—

(*a*) of promoting within such area the diffusion of the several forms of popular credit and co-operation;

(*b*) of drawing such institutions together in intimate and cordial relations for the interchange of mutual good offices;

(*c*) of establishing, in the common interest, distinct modes of guarding against the abuse of credit;

(*d*) of co-operating with the associated banks so as to render their action more efficacious;

(*e*) of coming to the aid of such banks whenever they are in difficulties and are willing to submit to an inspection of their affairs.

2. All popular banks and co-operative institutions within the above-mentioned district may become members of the group by a declaration of adhesion.

3. Every such associated institution may withdraw from the group on sending in an express declaration to that effect at least six months before the close of the business year.

The associated institutions may expel any institution which fails to obey the rules of the group, and the decisions of the general meeting.

4. The group acts—

(*a*) by the general meeting of the representatives of the associated institutions;

(*b*) by the president of the group.

5. Every associated institution, from time to time, elects, from amongst its directors or committee of supervision, a delegate to represent it at the general meeting of the group. This meeting is convoked by the president, who, at least fifteen days before the meeting, will issue invitations thereto containing a list of the subjects for discussion. For the preparation of such list the president shall previously address the several institutions to ascertain their wishes.

Each institution must inform the president of the name of its delegate at least five days prior to the meeting. Such delegation is personal: no delegate can represent more than one institution.

A quorum is constituted whatever the number of delegates present.

The general meeting elects the president who may be re-elected year after year.

The meeting shall determine the place which is to be considered as the central seat of the group.

The president may assign his functions temporarily to another delegate in case of necessity. He appoints a secretary who draws up the minutes of the meeting.

6. All offices are purely honorary and gratuitous.

Each institution, however, pays its delegate the expenses necessarily incurred by his attendance at the meeting.

7. For the general expenses of the group association, each associated institution shall pay a fixed subscription of . . lire if its paid-up capital exceeds . . . lire, and of . . . lire if it falls below that sum. These subscriptions shall be paid into the bank at the central seat of the group, and will be held at the disposal of the president.

8. The meeting shall ordinarily be convoked once in every year, but special meetings may also be held whenever the president considers it necessary, or when at least three associated institutions demand it on good cause shown.

The meeting may be held elsewhere than at the central seat of the group, provided that it be a place where there is an associated bank.

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* From Signor L. Rodino's 'Manual of Co-operative Society Precedents' (Barbèra Series of Manuals).

† The co-operative banks and societies of Germany, Austria and Italy, invariably form themselves into 'Groups' or 'Unions' for the purposes mentioned in this section, and especially for the purpose of providing efficient audit and inspection. (*See* chapter on Popular Banks in Vol. I, *s.v.*, Germany and Italy: also the chapter on 'Law', *s.v.* 'audit'; also the German Co-operative Law of 1889, in the present appendix, and the articles of the 'Agricultural Credit Central Bank' of Neuwied, and of the 'General Union' of the Raiffeisen system.

The meeting appoints the inspectors charged with the examination of the affairs of a bank in difficulties, and will concert means for its relief.

9. No modification may be made in the present articles except at a meeting at which the delegates of at least two-thirds of the associated institutions are present.*

RULES FOR THE ISSUE OF AGRICULTURAL DEBENTURES BY THE POPULAR BANKS OF THE FIRST GROUP (TREVISO ITALY).

It was early recognized that the popular banks on the Luzzatti system were helpful to agriculturists, but, in order to increase their usefulness to this class, the founder of the system desired to provide the banks with long-term capital instead of financing them with deposits withdrawable at call or short notice. Hence the origin of the "Buoni del tesoro dell' agricoltura a scadenza fissa" (agricultural debentures of fixed term).

As shown by their name these debentures are issued for the development of agriculture, especially for improvements; an agriculturist who desires a loan for such improvements (*e.g.*, the digging of a well) presents an application to his local bank with a statement of the nature of the intended improvement and the security offered; this is specially examined by the bank experts (probiviri dell' agricoltura) and, if approved, the loan is granted as soon as the bank has placed a corresponding debenture or set of debentures.

Each debenture is guaranteed (1) by the security given by the borrower including his sureties; (2) by the assets of the bank. They may be compared with the debentures issuable by English loan societies under the Act of 1840, but are more solidly based.

A peculiarity is that they are issued under the authority and approval of the group, by the president of which they are countersigned: it does not appear that this countersignature gives them any additional material guarantee, but merely certifies that the debenture is regularly issued.

These debentures are not to be confounded either with the "buoni fruttiferi a scadenza fissa," which are merely receipts for fixed-term deposits bearing interest, or with the agricultural debentures (cartelle agrarie) issuable by various banks under the law of 1887 (*q.v.*).

The following are the rules issued by the Treviso group of popular banks:—

1. The co-operative popular banks of the province of Treviso, comprising the 'first Italian group,' will issue agricultural debentures of fixed term payable to bearer and bearing interest: the first series shall not exceed £20,000 in amount, and are subject to the following conditions.

2. Their purpose is to procure for the popular banks a special fund for the aid of agriculturists, by preference for such agricultural operations as demand a lengthy period (for the recovery of the sum spent): *e.g.*, for projects of irrigation and drainage, for the purchase and renewal of implements which will increase the value of labour, for the restoration of plantations, for the levelling and improvement of the soil, for the purchase and breeding of stock, for the postponement of the sale of produce and stock in expectation of a rise in prices, and the like.

3. The banks (of the group) will, by way of experiment, issue loans upon bills, renewable every four months, for a period of one or more years, to agriculturists who are members of the banks, and who show that they intend to devote such loans to one of the purposes mentioned in rule 2.

4. The bank (granting such loan) will enquire every four months whether the borrower continues solvent and whether the loan has been properly utilized. Should the result of the enquiry be unsatisfactory, the bank will have the right of at once closing the loan and requiring its repayment in full.

5. The bank will invariably take the opinion of the discount committee and that of the agricultural experts (probiviri) before either granting or recalling a loan.

6. The three agricultural experts shall be annually elected by the directors from amongst persons who are thoroughly acquainted with the agriculture and rural economy of the area within which the bank operates; they shall invariably give their opinion with reasons to the discount committee upon every application for an agricultural loan.

7. The bank may, on the expiry of a loan, grant successive renewals provided that the conditions admit of it and the sureties agree thereto, and provided that the borrower makes a part payment at each renewal.

8. The agricultural debentures shall be called "Buoni del tesoro dell' agricoltura a scadenza fissa presso le banche popolari," and shall issue on account of and under the responsibility of the issuing bank.†

The debentures may be placed (on the market) either by the issuing bank, or by the president of the group if so requested.

9. The debentures shall be of uniform character for all the banks of the group, and shall be signed by the president, manager, and cashier of the issuing bank, and also by the president of the group as an attestation that they have been duly issued.

10. The president of the group in conjunction with his council and after taking the opinion of the directors of each bank, shall determine the amount of the debentures issuable by each bank, regard being had to the economic and financial position of each bank and to the local needs of agriculture in

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* The above articles provide indifferently for the duties of a group or union. The German law of 1889, irrespective of the articles of the unions under that law, is much more complete and deals expressly with the provision for examining inspectors: *see* translation of the law *supra*, page 82, and Vol. I, pages, 295, 296; also the translation of the articles of the 'General Union' of the Raiffeisen system.

† The articles do not state the precise security on which these debentures are based: that is probably provided for in the articles of the individual banks. The object of issuing these debentures through the groups president is not to give them greater material security, but to guarantee that they are good investments, solidly founded on genuine transactions (mortgages, &c.) and are duly covered by assets. It does not appear that the several banks of the groups assume any joint responsibility for the debentures.

the neighbourhood; care must be taken that the aggregate shall not exceed that fixed for the total of the first series and that the market value of the debentures shall be maintained.

The council of the group shall arrange for the maintenance of the necessary registers.

11. The council of the group * shall consist of the president of the groups and of two delegates chosen by him every six months from two of the associated banks.

12. The interest on agricultural loans made with capital obtained by the issue of these debentures shall be uniform for all the banks. The group council, in consultation with the directors of the associated banks, shall fix such rate, which shall not exceed by more than 1½ per cent., that paid by the banks upon the debentures.

The form of debentures shall be settled by the council of the group.

13. The council of the group shall draw up the business rules necessary for carrying out the present rules.

ARTICLES OF THE CO-OPERATIVE CREDIT SOCIETY OF POLIGNY.†

Constitution, &c.

1. A co-operative society of production, consumption, and mutual credit, with variable capital, is hereby formed among the members of the Agricultural Association of Poligny, and is called 'the Co-operative Society of Mutual Credit of the Arrondissément (taluk) of Poligny.' Members of other associations of the Jura which form part of the 'Union of Agricultural Associations of the Jura,' may belong to this society.

Its objects are—

(1) to buy and sell all classes of produce, goods, and cattle for members of the association, and for associates who pay an annual subscription ; ‡

(2) to bring aid to honest and industrious agriculturists, by means of loans and discounts, and to provide means for savings.

The society absolutely prohibits all speculative business, and all loans or discounts to non-members. All deposits are classed as loans to the society and are placed in account-current, a pass-book being given to the depositor.

The duration of the society is 30 years, and its head-quarters at Salins.

Capital and Shares.

*   *   *   *   *

2. The own capital is fixed at £800, in 40 shares of £20 each, called founders' shares.§ It may be raised to £8,000 by the issue of further shares of the same value, or of fractions (coupures) of shares, each of the value of £2, which may be subscribed for by ordinary members subsequently admitted.

3. The capital may be increased, or it may be reduced by the withdrawal either in whole or in part of the share contributions, but must never fall below £200.

The general meeting which decides upon an increase of capital shall at the same time fix the conditions on which the new shares shall issue, and especially the amount to be paid by each new subscriber as a contribution to the reserve.

Founders' shares will not be repaid by the society except in case of the death of the holder or of the liquidation of the society.

4. The shares or fractions of shares shall be solely personal, even when entirely paid up, according to the provisions of section 50 of the law of 1867. They can only be negotiated by transfer in the books of the society.

Since the society is essentially an association of *persons*, the consent of the board of directors to any transfer of shares must be obtained; the board may always refuse such transfer whatever may be the form such transfer assumes, or whatever its reason.

5. The heirs of a deceased shareholder are not recognized as members until one of them shall have been accepted by the board as representative of the deceased.

If no such representative is elected the heirs shall be entitled to receive repayment of the share value, but only in the mode and after the period fixed by article 10.

The same rule holds good in the case of the representatives of shareholders incapable or absent in the legal sense of the words, and of undivided co-proprietors of one or more shares.

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* For the rules guiding the formation and working of a group, *see* the Model Articles immediately preceding these rules.

† This society is the pioneer of the form of agricultural credit institution which, in a nascent stage, is special to France, and has apparently generated the new law of 1894, which follows subsequently. The Poligny Society is an agricultural association under the law of 1884 which legalized such associations, and it developed a credit annex to meet the needs of its members. Its success produced a few similar societies, and the law of 1894 (*see* translation next following), seeks to utilize the many hundreds of agricultural associations which have sprung up since 1884, as institutions for agricultural credit (*see* Vol. I, pp. 127, 179–81, 218–20).

‡ It will be noted that there are two classes of adherents, viz., members and associates. The latter may share in the co-operative benefits derived from the purchase and sale of produce and goods, but cannot obtain credit, which is confined to members.

§ These shares are intended merely to provide the first working capital. Such first capital may be attracted in various ways, *e.g.*, by making the society unlimited as in Germany, whereby outside capital is readily attracted as deposits or as loans from savings banks, &c., or by obtaining the guarantee of well-to-do persons, on which a bank or others will advance funds, or, as in the present case and as in the Bodenkredit Anstalt of Hungary (*see* Vol. I, pp. 77, 78 and 95), by the subscription of founders' shares which, though philanthropically subscribed, are entitled to a moderate *fixed* interest.

6. Shareholders are of two classes—
(1) those who have relinquished the right of demanding loans from the society; these are called founders (actionnaires fondateurs; patrons would be more appropriate, since they might happen to be members subsequently admitted);
(2) those who have not relinquished the right of borrowing; these are called ordinary members (actionnaires societaires). This second class shall have the sole right of demanding loans.

7. Shareholders are only responsible for the amount of the shares for which they have subscribed.

8. Every ordinary member may give notice of withdrawal in the first six months of the business year to the president of the board of directors.

9. The board of directors will propose at the general meeting the expulsion of every member who has not faithfully fulfilled his engagements with the society, or who has been convicted of an act which casts doubt on his solvency or morality.

Since the credit society only admits members of the agricultural associations as its own members, any person who leaves such association ceases, *ipso facto*, to be a member of the credit society. The general meeting has the final voice in such matters.

Should the capital have been reduced to the minimum of £200, any shareholder who is then excluded from the society must transfer his share or shares to a third person at the rate of the latest issue of shares.

10. The full share of a retired or expelled member will only be repaid to him after the approval by the general meeting of the annual accounts. But the board may at any time pay to such member one-half of the share value which appeared as due to him in the previous year's account.

A retired or expelled member has no claim to a share of the reserve.

The sums paid by a member upon his shares shall serve as guarantee, by way of pledge, for anything that he may come to owe the society, and shall not be repaid to him until after acquittance of all his dues to the society, but shall be placed to the credit of his account as a set-off against his debt. In no case shall the creditors of a member have any claim on the above sums until the society's dues have been satisfied.

11. Sums due to the society but in dispute shall be considered as past due in making up the accounts, and entered as suspense.

Management.*

12. The society is managed by a board consisting of from six to twelve members chosen from among the founders.

Their shares are inalienable, and shall be stamped (with the society's seal) and deposited in the safe.

13–16. (The appointment of directors by general meeting, the supply of vacancies, the limits of their responsibility, and rules for their meetings.)

17. The board disposes in the interests of the society of all matters not reserved by the law or articles to the general meeting; it admits members and proposes their expulsion; it fixes the maximum advance which may be granted to borrowers and the terms of repayment; regulates the business of deposits and determines the interest payable to depositors: draws up or causes to be drawn up the several statements and accounts and supplies all information or documents required by the law, or to be sent to the commissioners (auditors) and the general meeting.

It may contract loans, with or without mortgage, up to the amount of the shares subscribed by founders; deposits and withdraws funds in public treasuries, transfers, or converts securities; buys and sells, takes on lease or lets immovables; buys and sells movables; collects all sums due to the society and grants receipts for them; defends, carries through, compromises, arbitrates or obtains arbitrations (in contested matters); decides on the investment of surplus funds, &c.

*   *   *   *   *

19. The members of the board receive no remuneration.†

If the board appoints a manager he may be paid such amount as the board decides.

Commissioners (Auditors or Controllers).

20. The general meeting will appoint one or more commissioners, with or without salary, whose duty will be to report to the general meeting upon the position of the bank, on its balance sheet, and on the accounts presented by the directors; they shall exercise all the powers with which by law they are invested.‡

In case of necessity they are expressly bound to summon a general meeting.

Should the general meeting omit to appoint these officers, or should one or all of them refuse to act or be prevented from acting, the president of the commercial court may make orders as to such appointments, upon the application of those interested, and after duly notifying the directors.

General Meeting.

21–28. (Provide for the summoning and the duties of the general meeting, but contain little of special interest. Only actual shareholders who have held a share for at least three months prior to

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* Many of the provisions under this head are of the ordinary description and are either omitted or merely abstracted.

† This is one of the most marked features of true co-operative action whether in France, Germany, Italy, England, or America. It is a point expressly insisted on by Raiffeisen and Luzzatti, and in the pamphlet by M. Milcent explanatory of the model articles proposed for French societies which are almost, word for word, the same as the articles here translated, he enlarges on the necessity for gratuitousness of service, and for a maximum of (say) 3 per cent. as dividend upon founders' shares.

‡ *See* sections 32–34 and 43 of the French law of societies.

the meeting may vote; each share entitles to one vote up to a maximum of five. At least one-fourth of the total subscribed capital must be represented at an ordinary general meeting; failing such representation, a second meeting must be called after an interval of at least eight days, and after due notification: such second meeting is valid whatever the amount of capital represented, in so far as the subjects dealt with are those notified for the first meeting. For special meetings, at which alone modifications of the articles and proposals for liquidating the society may be disposed of, half the capital must be represented, and, for dissolution, two-thirds of the votes present must concur.)

BALANCE SHEET AND PROFITS.

29. (Provides for an annual balance sheet.)

30. Each year the net profit, less the amount set apart for the reserve, shall be divided among the shareholders in proportion to their share values.

Founders' shares shall, however, receive not more than 3 per cent., and if the dividend divisible upon ordinary shares exceeds 5 per cent., the board of directors shall have power to form from the surplus an extraordinary reserve which shall be at its disposal in the interests of the members of the society.*

* * * * *

RESERVE.

32. From the net annual profits shall be annually deducted, prior to the declaration of a dividend, such sum as shall be fixed by the general meeting in order to the formation of a reserve.

The amount annually set apart shall not fall below 5 per cent. of the net profits, but such appropriation shall not be obligatory when the reserve shall have reached one-fourth of the nominal capital.

The employment of the reserve fund is determined by the board of directors.†

(The remaining provisions deal with liquidation and disputes and are not of interest.‡)

EXTRACTS FROM THE CODE OF COMMERCE OF BELGIUM.

CO-OPERATIVE SOCIETIES.

* * * * *

85. A co-operative society is one which is composed of members of whom the number or share contributions are variable, and whose shares are non-transferable.

86. A society must consist of at least seven members.

Members may bind themselves jointly or individually in an indefinite amount or up to a fixed sum.

* * * * *

90. Every co-operative society must keep a register containing on its first page the memorandum of association, and thereafter the following matters:—

(1) The name, business, and address of each member;

(2) The date of admission, retirement or expulsion of each member;

(3) An account of the sums deposited or withdrawn by each member.

This register shall be paged, initialled (on each page), and signed either by one of the judges of the commercial court or by the burgomaster of the commune gratuitously.

For the initials may be substituted the seal of the court or of the communal council.

91. The admission of members is evidenced by the placing of their signatures, with date, over against their names in the register.

* * * * *

93. Withdrawal is evidenced by a note of the fact entered on the member's pass-book, and on the register opposite to the name of the member. These notes must be signed and dated by the member and by the person who is managing and signing for the society.

94. If the managing member refuses to admit a resignation, the member may declare it before the local justice of the peace, whose clerk must prepare a minute of the fact and within 24 hours transmit such note by registered letter to the society. The minute shall be entered on plain paper and recorded *gratis*.

95. Expulsion is evidenced by a minute drawn up and signed by the managing director, reciting that the expulsion has taken place in conformity with the articles of the society. The minute shall be entered on the register of members, and a copy sent within 48 hours by registered letter to the expelled member.

96. A retiring or expelled member cannot promote the dissolution of the society, but is entitled to his share, as calculated upon the last balance sheet.

97. In case of the decease, failure, insolvency, or suspension from civil rights, of a member, his heirs, creditors or representatives may claim his share as mentioned in section 96. They cannot promote the dissolution of a society.

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* This limitation is deliberately intended to prevent that scramble for high profits and dividends which is found fatal to true co-operation, and highly detrimental both to borrowers and to the safety of operations.

† This appears to be objectionable: the articles should rigidly lay down the limits or objects of such employment; it is on the early formation of a strong, safely invested, and *inalienable* reserve, that much of the success of a society depends. Government paper or paper guaranteed by Government is alone suitable for the investment of reserves.

‡ It will be seen that the articles are very meagre and leave a great deal to the directors; there are absolutely no provisions as to loans. Vol. I, pp. 179–80 may be consulted.

98. Every retiring or expelled member remains personally responsible to the original amount of his liability for five years after withdrawal or expulsion for all the engagements of the society contracted prior to that date, unless any shorter period shall have been prescribed by any other law.

99. The rights of every member are represented by a pass-book which must bear the name of the society, the name, status and address of the member, the date of his admission, and the signature of the member and of the managing director.

It shall mention, date by date, every deposit in and withdrawal of money from the society by the member; such entries must be respectively signed by the managing director or by the member, and are valid as receipts.

The pass-book must also contain the articles of the society.

It is exempt from stamp duty.

100. The personal creditors of a member can only attach the interest or dividends upon shares, and the share itself only upon the dissolution of a society.*

101. Every year at a date to be fixed by the articles, the directors must prepare an inventory of assets and liabilities in the manner prescribed by section 62.

A reserve fund shall be formed in the manner prescribed by the same article.†

* * * * *

104. The balance sheet shall be transmitted, within 15 days after confirmation, to the registry of the local commercial court.

105. Every six months the directors must send to the same court a list showing alphabetically the names, business, and address of each member: the list shall be dated and certified by the directors who are responsible for any false entry.

106. Within eight days of appointment every manager shall deposit in the same registry an extract from the minute which recites their powers. Every such manager must give or transmit his authenticated signature to the registry.

EXTRACTS‡ FROM THE ARTICLES OF THE POPULAR BANK OF LIÉGE.

* * * * *

4. *Capital.*—The own capital is fixed at a minimum of £120, and consists—
   (1) of the entrance fees;
   (2) of the compulsory subscriptions to shares which are each of £8;
   (3) of the reserve and other joint funds.

5. The society also deals with extraneous capital, viz.:—
   (1) deposits of members and non-members;
   (2) other funds obtained by borrowing or by re-discount of bills.

6. *Rights and duties of Members.*—Members may take part in the general meeting, each member having but one vote.

7. Members are each obliged—
   (1) to pay an entrance fee;
   (2) to subscribe one share of £8;
   (3) to provide the costs of administration;
   (4) to answer for all liabilities of the society up to the amount of £40 each;
   (5) to obey the present articles and all other resolutions passed in conformity with the articles by the general meeting or by the board of directors.

* * * * *

11. A member disobeying the rules is liable to expulsion. This may be decreed by the general meeting especially in the following cases:—
   (1) if a member is three months in arrears with his payments;
   (2) if it has been necessary to recover any instalments of loans from him at law;
   (3) if he has incurred any serious criminal penalty.

* * * * *

20. *Management.*—The society is managed by a board consisting of 15 directors, and supervised by three commissioners. Both directors and commissioners must be members, and are appointed by a majority of votes at the general meeting which can, at any time, cancel such appointment.

* * * * *

28. The commissioners have unlimited powers of supervision and of check over all the operations of the society, and may examine the accounts, correspondence, minute books and all documents belonging to the society. Every week a statement giving an abstract of the assets and liabilities of the society must be furnished to them by the directors. They must submit to the general meeting a report on the results of their supervision, with any suggestions that may seem necessary; they must also describe the method on which they have verified the assets.

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* Compare the law of the French 'Crédit Foncier,' and the laws relating to Building Societies in several States of the United States of America.

† Viz., at least 5 per cent. of the net profits, till the reserve is equal to one-tenth of the share capital.

‡ It is unnecessary to give the full text of these articles, as the bank, though 'popular' is not rural, and most of the provisions are of the usual character.

30. *Loans.*—The amount which may be advanced to members depends upon the financial situation, and is at the discretion of the directors. But no advance exceeding £200 may be made to any member.

31. Loans are made for three months at most, subject to renewal if the sureties do not object.

32. A loan may be refused—
(*a*) for want of sufficient security;
(*b*) if the member fell into arrears with any previous loan, or caused a call to be made on his sureties;
(*c*) if the member has joined the society within one month.

33. If the loan does not exceed twice the amount of the member's subscriptions, the directors may grant a loan upon the personal character and status of the borrower if there is reasonable expectation of due recovery of the loan; the directors will, in such case, chiefly consider the honesty, energy and capacity of the borrower.

* * * * *

36. *Reserve.*—The reserve is formed—
(1) from the entrance fees;
(2) from a share of the profits. Such reserve is the exclusive property of the society (as a corporate body).

37. The amount to be credited from profits to the reserve shall be fixed annually by the general meeting: such amount must be at least one-twentieth of the net profits. But such credit shall not be obligatory when the reserve amounts to one-tenth of the capital of the society.

EXTRACTS* FROM PROPOSED MODEL ARTICLES FOR POPULAR CO-OPERATIVE AGRICULTURAL BANKS, BELGIUM.

1. *Object.*—The society is a co-operative association with the object of procuring for its members, by their collective credit, the capital which they need for agricultural trade or household expenses, and is called 'The Popular Agricultural Bank of Co-operative.' For articles 4, 5, 6, 7, 11, 21, 29, 31, *see* 4, 5, 6, 7, 11, 20, 28, 30 in the articles of the Liége bank.

* * * * *

32. Loans are made for six months at most, subject to renewal by the directors if the sureties raise no objection.
For articles 33, 34, 37, 38, *see* articles 32, 33, 36, 37 in the articles of the Liége bank.

RULES OF THE AGRICULTURAL BANK OF SEGOVIA (SPAIN).†

* * * * *

11. The loans which may be made are of three classes—
(1) on mortgage of rural and urban properties;
(2) on the security of crops and stock;
(3) on public securities.

Mortgages.

* * * * *

14. Mortgages may be either repayable by annuity or in lump: the former is repayable by a fixed annuity including interest and sinking fund.

15. In either case the borrower may repay the loan in whole or in part at any time; if only part paid, the annuity will be adjusted accordingly. But the borrower paying in advance must also pay a commission of 1 per cent. on the amount repaid.‡

16. The bank will only lend on first mortgage; it will however lend for paying off a prior loan if the bank thereby obtains position as first mortgagee.

17. Loans will only be granted up to 40 per cent. of the real value of a property.

18. (Mentions the documents, title-deeds, &c., to be produced by a candidate.)

19. (Provides for a valuation of the property and for the deposit of expenses.)

* * * * *

22. Interest for such loans is fixed by the board of directors with reference to the security offered.

23. Failure to pay interest for two successive half-years will involve the calling in of the loan with all interest and costs.

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* The full text of these articles is to be found in a work entitled 'Le Crédit Agricole,' by M. Léon D'Andrimont, the celebrated advocate, founder, and promoter of co-operative work in Belgium.

† The nature of this society and of its articles and rules in general are sufficiently indicated on page 183 of Vol. I. The rules relating to loans are here abstracted.

‡ This is to obviate the chance of any loss to the bank in finding a re-investment for the amount.

24. If the title tendered by a landholder is not complete, but is only possessory, two good sureties will be required in addition to the mortgage.

* * * * *

26. Mortgagors of town properties must agree in their contracts to inform the directors within fifteen days of any deterioration or depreciation to the property, or of any judicial order which may affect the possession of the property; any failure in this respect will entail cancelment of the agreement.

27. All expenses involved in making the loan shall be borne by the borrowers. But the bank will adopt every possible means to render such expenses equitable and moderate, and to avoid all that may be unnecessary.

AGRICULTURAL LOANS.

28 and 29. These loans shall be for periods not exceeding one customary agricultural year, viz., from 24th August to the same date in the next year.

On whatever date the loan be contracted, the period shall be considered as one complete year.

* * * * *

30. The board of directors will fix the rates of interest.

31. A land-owner requiring a loan of this character must produce his title-deeds and two good sureties. A tenant must produce his lease-deed, his receipts for the payment of his rent for the past ten years, or in default a certificate from the landlord that he has punctually paid his rental; also his receipts for the land-tax (or cess, contribution territorial); also two good sureties.

Every borrower constitutes himself by the contract a manager and bailee for the property which is the subject of the loan until the loan shall have been fully paid up. If he fails in any part of his contract, he will be liable to the penalties of section 2, heading 4, chapter 13 of the second book of the Penal Code. The above condition will be expressly entered in the loan contract.

32. Payment of the amount lent shall be made in cash: but may be realized (repaid) also in grain at the request of the borrower.

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BUILDING SOCIETIES ACT.*

[37 & 38 VICT., CH. 42.]

ARRANGEMENT OF CLAUSES.

Clauses.

1. Short title.
2. Commencement of Act.
3. Definition of registrar.
4. Definition of court.
5. Definition of terminating and permanent societies.
6. Application to Scotland.
7. Repeal of 6 & 7 Will. IV., c. 32.
8. Societies under former Act to continue.
9. Incorporation of societies.
10. Enrolments to be sent to registrar.
11. Where enrolled transcript of rules not transmitted.
12. Certificate of incorporation how to be granted.
13. Purpose for which societies may be established.
14. Limitation of liability of members.
15. Power to borrow money.
16. Matters to be set forth in the rules.
17. Rules to be made. Registration of rules.
18. Alteration of rules.
19. Rules may be made to provide forms of conveyance, &c.
20. Evidence of registration.
21. Rules to be binding on members and others.
22. Change of name.
23. Officers to give security.
24. Officers to account.
25. Investment of surplus funds.
26. When trustees are absent, &c., registrars may order stock to be transferred.
27. Property of the society vested without conveyance.
28. As to copyholds.
29. Payment of sums not exceeding £50 when members or depositors die intestate. Payment to persons appearing to be next of kin declared valid.
30. Provision for the case of a member dying intestate leaving an infant heir.
31. Punishment of fraud in withholding money, &c.
32. Proceedings necessary for the termination or dissolution of a society.
33. Societies may unite with others, or one society may transfer its engagements to another.

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* *See* Vol. I, pp. 189–91.
It has been found impossible, from want of time, to rewrite the section on Building Societies, as promised in the footnote to page 189 of Vol. I.

34. Determination of disputes by arbitration. Court may order compliance with the decision of arbitrators. Determination of disputes by registrar.
35. Determination of disputes by court.
36. Determination to be final.
37. Buildings for the purpose may be purchased or leased.
38. Minors may be elected members.
39. Shares may be held by two or more persons.
40. Societies shall make annual audits and statements of the funds to the members.
41. Exemption from stamp duties.
42. Receipt endorsed on mortgage to be sufficient discharge without re-conveyance.
43. Penalties.
44. Regulations.
SCHEDULE.

CHAPTER 42.

An Act to consolidate and amend the Laws relating to Building Societies. [30TH JULY 1874.]

* * * * *

1. This Act may be cited as The Building Societies Act, 1874.

* * * * *

3. The registrar in this Act means (except where otherwise expressed) the registrar for the time being of friendly societies in England, Scotland, or Ireland, as the case may be, who shall, for the purposes of this Act, be the registrar of building societies.

4. The court in this Act means,—

In England, the county court of the district in which the chief office or place of meeting for the business of the society is situate;

In Scotland, the sheriff's court of the county in which such office or place of meeting is situate; and

In Ireland, the civil bill court within the jurisdiction of which such office or place of meeting is situate.

5. A terminating society in this Act means a society which by its rules is to terminate at a fixed date, or when a result specified in its rules is attained; a permanent society means a society which has not by its rules any such fixed date or specified result at which it shall terminate.

* * * * *

13. Any number of persons may establish a society under this Act, either terminating or permanent, for the purpose of raising by the subscriptions of the members a stock or fund for making advances to members out of the funds of the society upon security of freehold, copyhold, or leasehold estate, by way of mortgage; and any society under this Act shall, so far as is necessary for the said purpose, have power to hold land with the right of foreclosure, and may from time to time raise funds by the issue of shares of one or more denominations, either paid up in full or to be paid by periodical or other subscriptions, and with or without accumulating interest, and may repay such funds when no longer required for the purposes of the society: Provided always, that any land to which any such society may become absolutely entitled by foreclosure, or by surrender, or other extinguishment of the right of redemption, shall as soon afterwards as may be conveniently practicable be sold or converted into money.

14. The liability of any member of any society under this Act in respect of any share upon which no advance has been made shall be limited to the amount actually paid or in arrear on such share, and in respect of any share upon which an advance has been made shall be limited to the amount payable thereon under any mortgage or other security or under the rules of the society.

15. With respect to the borrowing of money by societies under this Act, the following provisions shall have effect:—

(1) Any society under this Act may receive deposits or loans, at interest, within the limits in this section provided, from the members or other persons, or from corporate bodies, joint stock companies, or from any terminating building society, to be applied to the purposes of the society:

(2) In a permanent society the total amount so received on deposit or loan and not repaid by the society shall not at any time exceed two-thirds of the amount for the time being secured to the society by mortgages from its members:

(3) In a terminating society the total amount so received and not repaid may either be a sum not exceeding such two-thirds as aforesaid, or a sum not exceeding twelve months subscriptions on the shares for the time being in force:

(4) Any deposits with or loans to a society under this Act, made before the commencement of this Act in accordance with its certified rules, are hereby declared to be valid and binding on the society, but no further deposits or loans shall be received by such society, except within the limits provided by this section:

(5) Every deposit book or acknowledgment or security of any kind given for a deposit or loan by a society shall have printed or written therein or thereon the whole of the fourteenth and fifteenth sections of the present Act.

16. The rules of every society hereafter established under this Act shall set forth,—

(1) The name of the society, and chief office or place of meeting for the business of the society:

(2) (*Repealed by the Act of* 1894, *q.v.*)

(3) The purposes to which the funds of the society are to be applied, and the manner in which they are to be invested:

(4) (*Repealed by the Act of* 1894, *q.v.*)

(5) The manner of altering and rescinding the rules of the society, and of making additional rules:

(6) The manner of appointing, remunerating, and removing the board of directors or committee of management, auditors, and other officers:

(7) The manner of calling general and special meetings of the members:

(8) Provision for an annual or more frequent audit of the accounts, and inspection by the auditors of the mortgages and other securities belonging to the society:

(9) Whether disputes between the society and any of its members, or any person claiming by or through any member, or under the rules, shall be settled by reference to the court, or to the registrar, or to arbitration:

(10) Provision for the device, custody, and use of the seal of the society, which shall in all cases bear the registered name thereof:

(11) Provision for the custody of the mortgage deeds and other securities belonging to the society:

(12) The powers and duties of the board of directors or committee of management and other officers:

(13) The fines and forfeitures to be imposed on members of the society:

(14) The manner in which the society, whether terminating or permanent, shall be terminated or dissolved.

17. The persons intending to establish a society under this Act shall transmit to the registrar two copies of the rules agreed upon by them for the government of the society, signed by three of such persons and by the intended secretary or other officer; and the registrar, if he find that the rules contain all the provisions set forth in section sixteen of this Act, and that they are in conformity with this Act, shall return one copy of the rules to the secretary or other officer of the society, with a certificate of incorporation, and shall retain and register the other copy; provided that no society shall be registered under this Act in a name identical with that in which a subsisting society is already registered, or so nearly resembling the same as to be calculated to deceive, unless such subsisting society is in course of being terminated or dissolved, and consents to such registration. The society shall supply to any person requiring the same a complete printed copy of the rules, with a copy of the certificate of incorporation appended thereto, and shall be entitled to charge for every such printed copy of rules a sum not exceeding one shilling.

18. Any society under this Act, certified previously to the passing of this Act, may alter or rescind any rule or make any additional rule by the vote of three-fourths of the members present at a special meeting called for the purpose, of which meeting notice, specifying the proposed alteration, rescission, or addition shall be given to the members in the manner provided by the rules of the society or in the absence of such rules, by letters sent through the post seven days previous to such meeting; and any society hereafter established may alter or rescind any rule, or make an additional rule, in the manner its rules direct; and every society under this Act altering or rescinding any rule, or making an additional rule, shall forward two copies of every resolution for rescission of a rule, and of every alteration of or addition to its rules, signed by three members and the secretary, and a statutory declaration of an officer of the society that the provisions of this section have been complied with, to the registrar, who, if he find that such alteration, addition, or rescission is in conformity with this Act, shall return one of the copies to the secretary or other officer of the society with a certificate of registration, and retain and register the other copy.

19. Any society under this Act, in a schedule to its rules, may describe the forms of conveyance, mortgage, transfer, agreement, bond, security for deposit or loan, or other instrument necessary for carrying its purposes into execution.

20. Any certificate of incorporation or of registration, or other document relating to a society under this Act, purporting to be signed by the registrar, shall, in the absence of any evidence to the contrary, be received by the court, and by all courts of law and equity and elsewhere, without proof of the signature; and a printed copy of the rules of a society, certified by the secretary or other officer of the society to be a true copy of its registered rules, shall, in the absence of any evidence to the contrary, be received as evidence of the rules.

21. The rules of a society under this Act shall be binding on the several members and officers of the society, and on all persons claiming on account of a member, or under the rules, all of whom shall be deemed and taken to have full notice thereof.

22. A society under this Act may change its name by resolution of three-fourths of the members present at a meeting called for the purpose, provided that the new name is not identical with that of any society previously registered and still subsisting, or so nearly resembling the same as to be calculated to deceive, unless such subsisting society is in course of being terminated or dissolved, and consents to such registration. Notice of the change of name shall be sent to the registrar and registered by him, and he shall give a certificate of registration. Such change of name shall not affect any right or obligation of the society, or of any member thereof, or other person concerned.

23. Every officer of a society under this Act having the receipt or charge of any money belonging to the society shall, before taking upon himself the execution of his office, become bound with one sufficient surety at the least, in a bond according to the form set forth in the schedule to this Act, or give the security of a guarantee society, or such other security as the society direct, in such sum as the society require, conditioned for rendering a just and true account of all moneys received and paid by him on account of the society, and for payment of all sums of money due from him to the society, at such times as its rules appoint, or as the society require him to do so.

24. Every such officer, his executors or administrators, shall, upon demand made, or notice in writing given or left at his last or usual place of residence, give in his account as may be required by

the board of directors or committee of management of the society, to be examined and allowed or disallowed by them, and shall, on the like demand or notice, pay over all the moneys remaining in his hands, and deliver all securities and effects, books, papers, and property of the society in his hands or custody, to such person as the society appoint; and in case of any neglect or refusal to deliver such account, or to pay over such moneys, or to deliver such securities and effects, books, papers, and property, in manner aforesaid, the society may sue upon the bond, or may apply to the court, who may proceed thereupon in a summary way, and make such order thereon as to the court in its discretion shall seem just, which order shall be final and conclusive.

25. Any society under this Act may from time to time, as the rules permit, invest any portion of the funds of the society, not immediately required for its purposes, upon real or leasehold securities, or in the public funds, or in or upon any parliamentary stock or securities, or in or upon any stock or securities payment of the interest on which is guaranteed by authority of Parliament, or in the case of terminating societies, with other societies under this Act; and for the purpose of investments in the public funds or upon security of copyhold or customary estate, the society, or the board of directors or committee of management thereof, may from time to time appoint and remove trustees.

26. (Permits the registrar to transfer stock from absent, bankrupt, lunatic, &c., trustees to other trustees on application by the society and on proper proof.)

* * * * *

29. If any member of or depositor with a society under this Act having in the funds thereof a sum of money not exceeding fifty pounds shall die intestate, then the amount due may be paid to the person who shall appear to the directors or committee of management of the society to be entitled under the Statute of Distributions to receive the same, without taking out letters of administration, upon the society receiving satisfactory evidence of death and a statutory declaration that the member or depositor died intestate, and that the person so claiming is entitled as aforesaid: Provided that whenever the society after the decease of any member or depositor has paid any such sum of money to the person who at the time appeared to be entitled to the effects of the deceased under the belief that he had died intestate the payment shall be valid and effectual with respect to any demand from any other person as next of kin or as the lawful representative of such deceased member or depositor against the funds of the society, but nevertheless such next of kin or representative shall have his lawful remedy for the amount of such payment as aforesaid against the person who has received the same.

30. Whenever a member of a society under this Act, having executed a mortgage to the society, shall die intestate, leaving an infant heir or infant coheiress, it shall be lawful for the said society, after selling the premises so mortgaged to them, to pay to the administrator or administratrix of the deceased member any money, to the amount of one hundred and fifty pounds, which shall remain in the hands of the said society after paying the amount due to the society and the costs and expenses of the sale, without being required to pay the same into the Post Office Savings Bank, as provided by the Trustees Relief Act, and the Acts amending or extending the same. The said sum of one hundred and fifty pounds to be considered as personal estate, and liable to duty accordingly.

* * * * *

32. A society under this Act may terminate or be dissolved—

(1) Upon the happening of any event declared by its rules to be the termination of the society.

(2) By dissolution in manner prescribed by its rules.

(3) By dissolution with the consent of three-fourths of the members, holding not less than two-thirds of the number of shares in the society, testified by their signatures to the instrument of dissolution. The instrument of dissolution shall set forth—

(a) the liabilities and assets of the society in detail;

(b) the number of members, and the amount standing to their credit in the books of the society;

(c) the claims of depositors and other creditors, and the provision to be made for their payment;

(d) the intended appropriation or division of the funds and property of the society;

(e) the names of one or more persons to be appointed trustees for the special purpose, and their remuneration.

Alterations in the instrument of dissolution may be made with the like consent, testified in the same manner. The instrument of dissolution and all alterations therein shall be registered in the manner provided for the registration of rules, and shall be binding upon all the members of the society.

(4) By winding-up, either voluntarily under the supervision of the court or by the court, if the court shall so order, on the petition of any member authorised by three-fourths of the members present at a general meeting of the society specially called for the purpose to present the same on behalf of the society, or on the petition of any judgment creditor for not less than fifty pounds, but not otherwise. General orders for regulating the proceedings of the court under this section may be from time to time made by the authority for the time being empowered to make general orders for the court.

Notice of the commencement and termination of every dissolution or winding-up shall be sent to the registrar, and registered by him.

33. Two or more societies under this Act may unite and become one society, with or without any dissolution or division of the funds of such societies or either of them, or a society under this Act may transfer its engagements to any other such society, upon such terms as shall be agreed upon by three-fourths of the members (holding not less than two-thirds of the whole number of shares) of each of such societies present at general meetings respectively convened for the purpose; but no such transfer shall prejudice any right of any creditor of either society. Notice of every such union or transfer shall be sent to the registrar, and registered by him.

34. Where the rules of a society under this Act direct disputes * to be referred to arbitration, arbitrators shall be named and elected in the manner such rules provide, or, if there be no such provision, at the first general meeting of the society, none of the said arbitrators being beneficially interested, directly or indirectly, in its funds; of whom a certain number, not less than three, shall be chosen by ballot in each such case of dispute, the number of the said arbitrators and mode of ballot being determined by the rules of the society; the names of such arbitrators shall be duly entered in the minute book of the society, and, in case of the death or refusal or neglect of any of the said arbitrators to act, the society, at a general meeting, shall name and elect an arbitrator to act in the place of the arbitrator dying, or refusing or neglecting to act; and whatever award shall be made by the arbitrators or the major part of them, according to the true purport and meaning of the rules of the society, shall determine the dispute; and should either of the parties to the dispute refuse or neglect to comply with or conform to such award within a time to be limited therein, the court, upon good and sufficient proof being adduced of such award having been made, and of the refusal of the party to comply therewith, shall enforce compliance with the same upon the petition of any person concerned. Where the parties to any dispute arising in a society under this Act agree to refer the dispute to the registrar, or where the rules of the society direct disputes to be referred to the registrar, the award of the registrar shall have the same effect as that of arbitrators.

35. The court may hear and determine a dispute in the following cases:—

(1) If it shall appear to the court, upon the petition of any person concerned, that application has been made by either party to the dispute to the other party, for the purpose of having the dispute settled by arbitration under the rules of the society, and that such application has not within forty days been complied with, or that the arbitrators have refused or for a period of twenty-one days have neglected to make any award.

(2) Where the rules of the society direct disputes to be referred to the court or to justices.

36. Every determination by arbitrators or by the court or by the registrar under this Act of a dispute shall be binding and conclusive on all parties, and shall be final to all intents and purposes, and shall not be subject to appeal, and shall not be removed or removable into any court of law, or restrained or restrainable by the injunction of any court of equity; provided always, that the arbitrators, or the registrar, or the court, as the case may be, may, at the request of either party, state a case for the opinion of the Supreme Court of Judicature on any question of law, and shall have power to grant to either party to the dispute such discovery, as to documents and otherwise, as might now be granted by any court of law or equity, such discovery to be made on behalf of the society by such officer of the society as the arbitrators, registrar, or court may determine.

37. A society under this Act may purchase, build, hire, or take upon lease any building for conducting its business, and may adapt and furnish the same, and may purchase or hold upon lease any land for the purpose only of erecting thereon a building for conducting the business of the society, and may sell, exchange, or let such building, or any part thereof.

38. Any person under the age of twenty-one years may be admitted as a member of any society under this Act, the rules of which do not prohibit such admission, and may give all necessary acquittances; but during his nonage he shall not be competent to vote or hold any office in the society.

39. Two or more persons may jointly hold a share or shares in any society under this Act; and all shares held jointly by any two or more persons in any society subsisting at the time appointed for the commencement of this Act, the rules whereof shall not prohibit such joint holding, shall be deemed to be lawfully so held.

40. The secretary or other officer of every society under this Act shall, once in every year at least, prepare an account of all the receipts and expenditure of the society since the preceding statement, and a general statement of its funds and effects, liabilities and assets, showing the amounts due to the holders of the various classes of shares respectively, to depositors and creditors for loans, and also the balance due or outstanding on their mortgage securities (not including prospective interest), and the amount invested in the funds or other securities; and every such account and statement shall be attested by the auditors, to whom the mortgage deeds and other securities belonging to the society shall be produced, and such account and statement shall be countersigned by the secretary or other officer; and every member, depositor, and creditor for loans shall be entitled to receive from the society a copy of such account and statement, and a copy thereof shall be sent to the registrar within fourteen days after the annual or other general meeting at which it is presented, and another copy thereof shall be suspended in a conspicuous place in every office of the society under this Act.

41. No rules of any society under this Act, nor any copy thereof, nor any power, warrant, or letter of attorney granted or to be granted by any person as trustee for the society for the transfer of any share in the public funds standing in his name, nor any receipts given for any dividend in any public stock or fund, or interest of exchequer bills, nor any receipt, nor any entry in any book of receipt, for money deposited in the funds of the society, nor for any money received by any member, his executors or administrators, assigns, or attorneys, from the funds of the society, nor any transfer of any share, nor any bond or other security to be given to or on account of the society, or by any officer thereof, nor any order on any officer for payment of money to any member, nor any appointment of any agent, nor any certificate or other instrument for the revocation of any such appointment, nor any other instrument or document whatever required or authorised to be given, issued, signed, made, or produced in pursuance of this Act, or of the rules of the society, shall be subject or liable to or charged with any stamp duty or duties whatsoever, provided that the exemption shall not extend to any mortgage.

* "The Building Societies Act of 1884 was a short Act passed to define the meaning of the word 'disputes' when "appearing in the building societies' statutes or the rules of a society. It provides that it shall be deemed to refer "only to disputes between a society and a member, and shall not, in the absence of an express provision in the rules "of the society, apply to any dispute between the society and a member as to the construction or effect of any "mortgage deed, or any contract contained in any document other than the rules of the society, and shall not prevent "the members of any society from obtaining in the ordinary course of law any remedy in respect of any such "mortgage or contract." (From 'The Building Societies Act, 1894,' by Bowen and Wailcy.)

42. When all moneys intended to be secured by any mortgage or further charge given to a society under this Act in England or Ireland have been fully paid or discharged, the society may endorse upon or annex to such mortgage or further charge a re-conveyance of the mortgaged property to the then owner of the equity of redemption, or to such persons and to such uses as he may direct, or a receipt under the seal of the society, countersigned by the secretary or manager, in the form specified in the schedule to this Act, and such receipt shall vacate the mortgage or further charge or debt, and vest the estate of and in the property therein comprised in the person for the time being entitled to the equity of redemption, without any re-conveyance or re-surrender whatever; and if the said mortgage or further charge has been registered under any Act for the registration or record of deeds or titles, the registrar under such Act, or his deputy or assistant registrar, or the recording officer, as the case may be, or, in the case of copyholds or lands of customary tenure, if the mortgage or further charge has been entered on any court rolls, the steward of the manor or his deputy respectively, shall, on production of such receipt, verified by oath of any person, make an entry opposite the entry of the charge or mortgage, to the effect that such charge or mortgage is satisfied, and shall grant a certificate, either on the said mortgage or charge or separately, to the like effect, which certificate shall be received in evidence in all courts and proceedings without any further proof, and which entry shall have the effect of clearing the register or record of such mortgage; and the registrar or recording officer shall be entitled to a fee of two shillings and six pence for making the said entry and granting the said certificate, and such fee shall in Ireland be paid by stamps, and applied as the other fees of the Registry of Deeds Office and Record of Title Office are now by law directed to be paid and applied.

43. If any society hereafter formed under this Act, or any person representing themselves to be a society under this Act, commence business without first obtaining a certificate of incorporation under this Act, or if any society under this Act makes default in forwarding to the registrar any returns or information by this Act required, or in inserting in any deposit book or acknowledgment or security for loan the matters required by section fifteen of this Act to be inserted therein, or makes a return wilfully false in any respect, the person or persons by whom business shall have been so commenced, or by whom such default shall have been made, or who shall have made such wilfully false return, shall be liable for every day business is so carried on, or for every such default or false return, upon summary conviction before justices at the complaint of the registrar, to a penalty not exceeding five pounds. If any society under this Act receives loans or deposits in excess of the limits prescribed by this Act, the directors or committee of management of such society receiving such loans or deposits on its behalf shall be personally liable for the amount so received in excess.

44. One of Her Majesty's Principal Secretaries of State may from time to time make regulations respecting the fees, if any, to be paid for the transmission, registration, and inspection of documents under this Act, and generally for carrying this Act into effect. The registrar shall give his certificates in the forms contained in the schedule to this Act respectively.

* * * * *

BUILDING SOCIETIES ACT, 1894.*

[57 & 58 Vict., Cap. 47].

1. (Prescribes certain matters to be set forth in the articles.)

2. (1) Every annual account and statement under section 40 of the Building Societies Act, 1874, shall be made up to the end of the official year of the society to which it relates, and shall be in such form and shall contain such particulars as the Chief Registrar of Friendly Societies may from time to time, with the approval of a Secretary of State, direct, either generally or with respect to any society or class of societies. Provided that every such account and statement shall set forth—

(a) With respect to mortgages to the society upon each of which the present debt does not exceed five thousand pounds (not being mortgages where the repayments are upwards of twelve months in arrear, or where the property has for upwards of twelve months been in possession of the society), the number of all such mortgages, and the aggregate amount owing thereon at the date of the account or statement, such information being given separately in respect of each of the four following classes :—

(i) Where the debt does not exceed five hundred pounds;
(ii) Where the debt exceeds five hundred pounds and does not exceed one thousand pounds;
(iii) Where the debt exceeds one thousand pounds and does not exceed three thousand pounds:
(iv) Where the debt exceeds three thousand pounds and does not exceed five thousand pounds.

(b) With respect to any other mortgage to the society, the particulars shown by the appropriate tabular form in the First Schedule to this Act.

(2) Every auditor, in attesting any such annual account or statement, shall either certify that it is correct, duly vouched, and in accordance with law, or specially report to the society in what respect he finds it incorrect, unvouched, or not in accordance with law, and shall also certify that he has at that audit actually inspected the mortgage deeds and other securities belonging to the society, and shall state the number of properties with respect to which deeds have been produced to and actually inspected by him.

(3) A copy of every such annual account and statement shall be sent to the registrar within fourteen days after the annual or other general meeting at which it is presented, or within three after the expiration of the official year of the society, whichever period expires first.

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* This Act has been found necessary to amend certain defects and supply omissions in the principal Act of 1874. It will be observed that the amendments are all in the direction of more stringent supervision, whether by auditors or by the registrar; members are also given greater power of obtaining inspections.

3. Notwithstanding anything in the rules of any society under the Building Societies Acts, one at least of the auditors of the society shall be a person who publicly carries on the business of an accountant.

4. (1) The registrar may, if he thinks fit, of the application of ten members of a society under the Building Societies Acts, each of whom has been a member of the society for not less than twelve months immediately preceding the date of the application, appoint an accountant or actuary to inspect the books of the society, and to report thereon.

(2) Provided as follows:—

(a) The applicants shall deposit with the registrar such sum as a security for the costs of the proposed inspection as the registrar may require; and

(b) All expenses of and incidental to any such inspection shall be defrayed by the applicants, or out of the funds of the society, or by the members or officers, or former members or officers, of the society in such porportions as the registrar may direct.

(3) A person appointed under this section shall have power to make copies of any books of the society and to take extracts therefrom at all reasonable hours, at the registered office of the society, or at any place where the books are kept.

(4) The registrar shall communicate the results of any such inspection to the applicants and to the society.

5. (1) The registrar may, on the application of one-tenth of the whole number of members of a society under the Building Societies Acts, or of one hundred members in the case of a society consisting of more than one thousand members, and with the consent of the Secretary of State, either—

(a) appoint an inspector to examine into and report on the affairs of the society; or

(b) call a special meeting of the society.

(2) Provided as follows:—

(a) The application under this section shall be supported by such evidence as the registrar may direct for the purpose of showing that the applicants have good reason for requiring the inspection to be made or the meeting to be called, and that they are not actuated by malicious motives in their application; and

(b) Such notice of the application shall be given to the society as the registrar may direct; and

(c) The registrar shall require the applicants to give security for the costs of the proposed inspection or meeting before the inspector is appointed or the meeting is called; and

(d) All expenses of and incidental to the inspection or meeting shall be defrayed by the applicants, or out of the funds of the society, or by the members or officers, or former members or officers of the society, in such proportions as the registrar may direct.

(3) An inspector appointed under this section may require the production of all or any of the books, accounts, securities, and documents of the society, and may examine on oath its officers, members, agents, and servants in relation to its business, and may administer an oath accordingly.

(4) The registrar may direct at what time and place a special meeting under this section is to be held, and what matters are to be discussed and determined at the meeting, and the meeting shall have all the powers of a meeting called according to the rules of the society, and shall in all cases have power to appoint its own chairman, any rule of the society to the contrary notwithstanding.

(5) The registrar may, without any application by members, but with the consent of the Secretary of State given on each occasion, exercise the powers given by this section in the following cases:—

(a) Where a society has, for two months after notice, failed to make any return required by the Building Societies Acts;

(b) Where a society has, for two months after notice, failed to correct or complete any such return;

(c) Where evidence is furnished by a statutory declaration of not less than three members of a society, of facts which, in the opinion of the registrar, call for investigation, or for recourse to the judgment of a meeting of the members. Provided that the registrar shall forthwith, on receipt of such declaration, send a copy thereof to the society, and such society shall, within fourteen days from the sending of such copy, be entitled to give the registrar an explanatory statement in writing, by way of reply thereto.

6. (The registrar may, where a society has been registered by fraud or mistake, or where it exists for an illegal purpose, or where it wilfully, and after notice, violates the provisions of the Building Societies Acts, cancel or suspend the registry of the society, after two months' notice in writing, and shall advertise such cancelment or suspension: appeal lies by the society to the High Court.' During suspension or on cancelment all privileges are withdrawn from the society, but its liabilities continue.)

7. (1) On the application in writing of one-tenth of the whole number of members of any society under the Building Societies Acts, or of one hundred members in the case of a society of more than one thousand members, setting forth that the society is unable to meet the claims of its members, and that it would be for their benefit that it should be dissolved, and requesting an investigation into the affairs of the society with a view to the dissolution thereof, the registrar may investigate the affairs of the society, but shall before so doing give not less than two months' previous notice in writing to the society at its registered chief office or place of meeting.

(2) If on such investigation it appears that the society is unable to meet the claims of its members, and that it would be for their benefit that it shoud be dissolved, the registrar may, if he considers it expedient so to do, award that the society be dissolved, and shall direct in what manner the affairs of the society are to be wound up. Provided that the registrar may suspend his award for such period as he may deem necessary to enable the society to make such alterations of its rules as will in his judgment prevent the necessity of the award being made.

(3) The registrar shall within twenty-one days after the making of any award for dissolution under this section, cause notice thereof to be advertised in the Gazette, and in some newspaper circulating in the county in which the registered chief office or place of meeting of the society is situate.

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10. When a society under the Building Societies Acts is being dissolved or wound up, a member to whom an advance has been made under any mortgage or other security or under the rules of the society, shall not be liable to pay the amount payable under the mortgage or other security or rules, except at the time or times and subject to the conditions therein expressed. This section shall come into operation immediately after the passing of this Act.

11. If a society under the Building Societies Acts is dissolved in manner prescribed by its rules or in pursuance of the consent of three-fourths of the members, the liquidators, trustees, or other persons having the conduct of the dissolution shall, within twenty-eight days from the termination of the dissolution, send to the registrar an account and balance sheet signed and certified by them as correct, and showing the assets and liabilities of the society at the commencement of the dissolution and the mode in which those assets and liabilities have been applied and discharged, and in default of so doing shall each be liable to a fine not exceeding five pounds for every day during which the default continues.

12. (1) A society under the Building Societies Acts established after the passing of this Act shall not cause or permit the applicants for advances to ballot for precedence or in any way make the granting of an advance depend on any chance or lot.

13. (1) A society under the Building Societies Acts shall not advance money on the security of any freehold, copyhold, or leasehold estate which is subject to a prior mortgage, unless the prior mortgage is in favour of the society making the advance.

14. In calculating the amount for the time being secured to a society under the Building Societies Acts by mortgages from its members for the purpose of ascertaining the limits of its power to receive deposits or loans at interest, the amount secured on properties the payments in respect of which were upwards of twelve months in arrear at the date of the society's last preceding annual account and statement, and the amount secured on properties of which the society had been twelve months in possession at the date of such account and statement shall be disregarded.

15. (1) A society under the Building Societies Acts shall not use any name or title other than its registered name, and shall not accept any deposit except on the terms that not less than one month's notice may be required by the managers of the society before repayment or withdrawal.

(2) If a society contravenes this section, the society, and also every director or member of the committee of management, who is a party to the contravention, shall be liable on summary conviction to a fine not exceeding ten pounds, and in the case of a continuing offence to an additional fine not exceeding ten pounds for every week during which the offence continues.

21. If any society under the Building Societies Acts neglects or refuses—

(*a*) to give any notice, send any return or document, or do or allow to be done anything which the society is by those Acts required to give, send, do or allow to be done; or,

(*b*) to do any act or furnish any information required for the purposes of those Acts by the registrar or by an inspector; the society, and also every officer thereof bound by the rules thereof to fulfil the duty whereof a breach has been so committed, and if there is no such officer, then every member of the committee of management or board of directors of the society, unless it appears that he was ignorant of or attempted to prevent the breach, shall for each offence be liable, on summary conviction, to a fine not exceeding twenty pounds, and in the case of a continuing offence, to an additional fine not exceeding five pounds for every week during which the offence continues.

23. No director, secretary, surveyor, solicitor, or other officer of a society under the Building Societies Acts shall, in addition to the remuneration prescribed or authorised by the rules of the society, receive from any other person any gift, bonus, commission, or benefit, for or in connexion with any loan made by the society, and any person paying or accepting any such gift, bonus, commission, or benefit, shall be liable on summary conviction to a fine not exceeding fifty pounds, and, in default of payment, to be imprisoned with or without hard labour for any time not exceeding six months, and the person accepting any such gift, bonus, commission, or benefit, shall, as and when directed by the court by whom he is convicted, pay over to the society the amount or value of such gift, bonus, commission, or benefit, and in default of such payment shall be liable to be imprisoned with or without hard labour for any time not exceeding six months.

FIRST SCHEDULE.

PART I.

Particulars to be set forth in the case of a mortgage where the repayments are not upwards of twelve months in arrears, and the property has not been upwards of twelve months in possession of the society, and where the present debt exceeds 5,000*l*.

1	2	3	4	5	6	7	8	9
Date of advance.	Whether subject to any prior mortgage or charge. If so, what amount.	Whether freehold, copyhold, or leasehold.	Original valuation of property.	Amount of advance.	Present debt.	Amount of payments in advance.	Amount of payments in arrear.	Observations.

PART II.

Particulars to be set forth in the case of property of which the society has been upwards of twelve months in possession :—

1	2	3	4	5	6	7	8	9	10	11	12
Roll Numbers.	Date of advance.	Date when possession was taken.	Whether subject to any prior mortgage or charge. If so, what amount.	Whether freehold, copyhold, or leasehold.	Amount of advance.	Original valuation of property.	Debt when possession was taken.	Present amount included in assets.	Gross income for the year.	Outgoings for the year.	Observations.

PART III.

Particulars to be set forth in the case of a mortgage where the repayments are upwards of twelve months in arrear and the property has not been upwards of twelve months in possession of the society :—

1	2	3	4	5	6	7	8	9
Date of advance.	Whether subject to any prior mortgage or charge. If so, what amount.	Whether freehold, copyhold, or leasehold.	Number of months in arrear.	Original valuation of property.	Amount of advance.	Present debt.	Amount of payments in arrear.	Observations.

INDUSTRIAL AND PROVIDENT SOCIETIES ACT, 1893.

[56 & 57 VICT., CH. 39.]

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SCHEDULES.

CHAPTER 39.

An Act to consolidate and amend the Laws relating to Industrial and Provident Societies.

[12TH SEPTEMBER 1893.]

Preliminary.

1. This Act may be cited as the Industrial and Provident Societies Act, 1893.*

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3. Every incorporated society now existing, which has been registered or certified under any Act relating to industrial and provident societies, shall be deemed to be a society registered under this Act, and its rules shall, so far as the same are not contrary to any express provision of this Act, continue in force until altered or rescinded.

Registration of Societies.

4. A society which may be registered under this Act (herein called an industrial and provident society) is a society for carrying on any industries, businesses, or trades specified in or authorised by its rules, whether wholesale or retail, and including dealings of any description with land. Provided that—

(*a*) no member other than a registered society shall have or claim any interest in the shares of the society exceeding two hundred pounds, and

(*b*) in regard to the business of banking, the society shall be subject to the provisions hereinafter contained.

5. With respect to the registry of new societies, the following provisions shall have effect:—

(1) No society can be registered under this Act which does not consist of seven persons at least;

(2) For the purpose of registry an application to register the society, signed by seven members and the secretary, and two printed copies of the rules, shall be sent to the registrar;

(3) No society shall be registered under a name identical with that under which any other existing society is registered, or so nearly resembling such name as to be likely, or in any name likely, in the opinion of the registrar, to mislead the members or the public as to its identity, and no society shall change its name except in the manner hereinafter provided;

(4) A society registered under the Industrial and Provident Societies Act, 1852, and not registered under the Industrial and Provident Societies Acts, 1862, 1867, or 1876, may obtain from the registrar an acknowledgment of registry under this Act;

(5) The word "limited" shall be the last word in the name of every society registered under this Act;

(6) A society carrying or intending to carry on business in more than one part of the United Kingdom shall be registered in the part in which its registered office, as herein mentioned, is situate; but copies of the rules of the society and of all amendments of the same shall, when registered, be sent to the registrar of each of the other parts to be recorded by him, and until such rules are so recorded the society shall not be entitled to any of the privileges of this Act in the part in which such rules have not been recorded, and until such amendments are so recorded the same shall not take effect in such part.

6. The registrar, on being satisfied that a society has complied with the provisions as to registry in force under this Act, shall issue to such society an acknowledgment of registry.

7. (1) If the registrar refuses to register the society or any rules or amendments of rules, the society may appeal from such refusal as follows:—

(*a*) In England or Ireland to the High Court;

(*b*) In Scotland to either division of the Inner House of the Court of Session.

(2) If the refusal of registry is overruled on appeal, an acknowledgment of registry shall thereupon be given to the society by the registrar.

8. The acknowledgment of registry shall be conclusive evidence that the society therein mentioned is duly registered, unless it is proved that the registry of the society has been suspended or cancelled.

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* This Act replaces that of 1876, and is that under which English co-operative societies, other than friendly and building societies, are registered. *See* Vol. I, pp. 187–89.

Cancelling and Suspension of Registry.

9. (1) The registrar may cancel the registry of a society by writing under his hand or seal:

(*a*) If at any time it is proved to his satisfaction that the number of the members of the society has been reduced to less than seven, or that an acknowledgment of registry has been obtained by fraud or mistake, or that the society has ceased to exist;

(*b*) If he thinks fit, at the request of a society, to be evidenced in such manner as he shall from time to time direct;

(*c*) With the approval of the Treasury, on proof to his satisfaction that the society exists for an illegal purpose, or has wilfully and after notice from a registrar violated any of the provisions of this Act.

(2) The registrar, in any case in which he might, with the approval of the Treasury, cancel the registry of a society, may suspend the same, by writing under his hand or seal, for any term not exceeding three months, and may, with the approval of the Treasury, renew such suspension from time to time for the like period.

(3) Not less than two months' previous notice in writing, specifying briefly the ground of any proposed cancelling or suspension of registry, shall be given by the registrar to a society before the registry of the same can be cancelled (except at its request) or suspended; and notice of every cancelling or suspension shall be published in the Gazette, and in some local newspaper circulating in or about the locality in which the registered office of the society is situated, as soon as practicable after the same takes place.

(4) A society may appeal from the cancelling of its registry, or from any suspension of the same which is renewed after three months, in manner herein provided for appeals from the registrar's refusal to register.

(5) A society whose registry has been suspended or cancelled shall, from the date of publication in the Gazette of notice of such suspension or cancelling (but, if suspended, only whilst such suspension lasts, and subject also to the right of appeal hereby given), absolutely cease to enjoy as such the privileges of a registered society, but without prejudice to any liability actually incurred by such society, which may be enforced against the same as if such suspension or cancelling had not taken place.

Rules.

10. (1) The rules of a society registered under this Act shall contain provisions in respect of the several matters mentioned in the Second Schedule to this Act.

(2) An amendment of a rule of a society registered under this Act shall not be valid until the same has been registered under this Act, for which purpose two copies of the same, signed by three members and the secretary, shall be sent to the registrar.

(3) The registrar shall, on being satisfied that any amendment of a rule is not contrary to the provisions of this Act, issue to the society an acknowledgment of registry of the same, which shall be conclusive evidence that the same is duly registered.

(4) A copy of the rules of a registered society shall be delivered by the society to every person on demand, on payment of a sum not exceeding one shilling.

(5) The rules of a registered society, or any schedule thereto, may set forth the form of any instrument necessary for carrying the purposes of the society into effect.

(6) The rules of every society registered under this Act shall provide for the profits being appropriated to any purposes stated therein or determined in such manner as the rules direct.

Duties of Registered Societies.

11. Every registered society shall have a registered office to which all communications and notices shall be addressed, and shall send to the registrar notice of the situation of such office, and of every change therein.

12. Every registered society shall paint or affix, and keep painted or affixed, its registered name on the outside of every office or place in which the business of the society is carried on, in a conspicuous position, in letters easily legible, and have its registered name engraven in legible characters on its seal, and have its registered name mentioned in legible characters in all notices, advertisements, and other official publications of the society, and in all bills of exchange, promissory notes, endorsements, cheques, and orders for money or goods, purporting to be signed by or on behalf of such society, and in all bills of parcels, invoices, receipts, and letters of credit of the society.

13. (1) Every registered society shall once at least in every year submit its accounts for audit either to one of the public auditors appointed as in this Act mentioned, or to two or more persons appointed as the rules of the society provide.

(2) The auditors shall have access to all the books, deeds, documents, and accounts of the society, and shall examine the balance sheets showing the receipts and expenditure, funds and effects of the society, and verify the same with the books, deeds, documents, accounts and vouchers relating thereto, and shall either sign the same as found by them to be correct, duly vouched, and in accordance with law, or specially report to the society in what respects they find them incorrect, unvouched, or not in accordance with law.

14. (1) Every registered society shall once in every year, not later than the thirty-first day of March, send to the registrar an annual return of the receipts and expenditure, funds and effects, of the society as audited.

(2) The annual return—

(*a*) shall be signed by the auditor or auditors; and

(*b*) shall show separately the expenditure in respect of the several objects of the society; and

(*c*) shall be made out from the date of its registration or last annual return to that of its last published balance sheet, provided that the last-named date is not more than one month

before or after the 31st of December then last, or otherwise to the said day of December inclusive ; and

(*d*) shall state whether the audit has been conducted by a public auditor appointed as by this Act is provided, and by whom, and, if by any persons other than a public auditor, shall state the name, address, and calling or profession of every such person, and the manner in which, and the authority under which, he is appointed.

The society shall, together with the annual return, send a copy of the report of the auditors, or, if more than one such report has been made during the period included in the return, a copy of each of such reports.

15. Every registered society shall supply gratuitously to every member or person interested in the funds of the society, on his application, a copy of the last annual return of the society for the time being.

16. Every registered society shall keep a copy of the last balance sheet for the time being, together with the report of the auditors, always hung up in a conspicuous place at the registered office of the society.

Inspection of Books.

17. (1) Save as provided by this Act, no member or person shall have any right to inspect the books of a registered society, notwithstanding anything in the existing rules relating to such inspection.

(2) Any member or person having an interest in the funds of a registered society shall be allowed to inspect his own account and the books containing the names of the members at all reasonable hours at the registered office of the society, or at any place where the same are kept, subject to such regulations as to the time and manner of such inspection as may be made from time to time by the general meetings of the society.

(3) A registered society may, by any rules registered after this Act is passed, authorise the inspection of any of its books therein mentioned, in addition to the said books containing the names of members, under such conditions as are thereby imposed, so that no person, unless he be an officer of the society, or be specially authorised by a resolution thereof, shall have the right to inspect the loan or deposit account of any other member without his written consent.

18. (1) The registrar may, if he thinks fit, on the application of ten members of a registered society, each of whom has been a member of the society for not less than twelve months immediately preceding the date of the application, appoint an accountant or actuary to inspect the books of the society, and to report thereon.

(2) Provided, as follows,—

(*a*) the applicants shall deposit with the registrar such sum as a security for the costs of the proposed inspection as the registrar may require ; and

(*b*) all expenses of and incidental to any such inspection shall be defrayed by the applicants, or out of the funds of the society, or by the members or officers, or former members or officers, of the society in such proportions as the registrar may direct.

(3) A person appointed under this section shall have power to make copies of any books of the society, and to take extracts therefrom, at all reasonable hours, at the registered office of the society or at any place where the books are kept.

(4) The registrar shall communicate the results of any such inspection to the applicants and to the society.

Banking by Societies.

19. (1) No registered society which has any withdrawable share capital shall carry on the business of banking.*

(2) Every registered society which carries on the business of banking shall on the first Mondays in February and August in each year make out and keep conspicuously hung up in its registered office, and every other office or place of business belonging to it where the business of banking is carried on, a statement in the form in the Third Schedule, or as near thereto as the circumstances admit.

(3) The taking deposits of not more than ten shillings in any one payment, nor more than twenty pounds for any one depositor, payable on not less than two clear days' notice, shall not be included in the business of banking within the meaning of this Act ; but no society which takes such deposits shall make any payment of withdrawable capital while any claim due on account of any such deposit is unsatisfied.

Returns and Documents.

20. Every return and other document required for the purposes of this Act shall be made in such form and shall contain such particulars as the chief registrar prescribes, and shall be deposited and registered or recorded, with or without observations thereon, in such manner as the chief registrar directs.

Privileges of Societies.

21. The registration of a society shall render it a body corporate by the name described in the acknowledgment of registry, by which it may sue and be sued, with perpetual succession and a common seal, and with limited liability ; and shall vest in the society all property for the time being vested in any person in trust for the society ; and all legal proceedings pending by or against the trustees of any such society may be prosecuted by or against the society in its registered name without abatement.

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* This provision seems unnecessarily stringent in the light of continental European experience, where the co-operative credit societies do so immense on account of banking, although they are all societies " à capital variable," since members to any number may withdraw at will, taking their capital with them. (*See* Vol. I *passim*, but especially the chapter on 'Popular banks,' pages 133–198.) It has, in fact, been ascertained that the four or five village banks recently (1895–96) started in England under the stimulus and information supplied by the 'Agricultural Banks Association,' have been registered under the Friendly Societies Act instead of under this Act.

22. The rules of a registered society shall bind the society and all members thereof and all persons claiming through them respectively to the same extent as if each member had subscribed his name and affixed his seal thereto, and there were contained in such rules a covenant on the part of such member, his heirs, executors, administrators, and assigns, to conform thereto, subject to the provisions of this Act: Provided that a society registered at the time when this Act comes into operation, or the members thereof, may respectively exercise any power given by this Act, and not made to depend on the provisions of its rules, notwithstanding any provision contained in any rule thereof registered before this Act was passed.

23. (1) All moneys payable by a member to a registered society shall be a debt due from such member to the society, and shall be recoverable as such either in the county court of the district in which the registered office of the society is situate, or in that of the district in which such member resides, at the option of the society.

(2) A registered society shall have a lien on the shares of any member for any debt due to it by him, and may set off any sum credited to the member thereon in or towards the payment of such debt.

24. A registered society shall not be chargeable under Schedules C. and D. of the Income Tax Acts unless it sells to persons not members thereof, and the number of shares of the society is limited either by its rules or its practice. But no member of or person employed by the society shall be exempt from any assessment to the said duties to which he would be otherwise liable.

25. (1) A member of a registered society, not being under the age of sixteen years, may, by a writing under his hand, delivered at or sent to the registered office of the society during the lifetime of such member, or made in any book kept thereat, nominate any person or persons other than an officer or servant of the society (unless such officer or servant is the husband, wife, father, mother, child, brother, sister, nephew, or niece of the nominator) to or among whom his property in the society, whether in shares, loans, or deposits, or so much thereof as is specified in such nomination, if the nomination does not comprise the whole, shall be transferred at his decease, provided the amount credited to him in the books of the society does not then exceed one hundred pounds sterling.

(2) A nomination so made may be revoked or varied by any similar document under the hand of the nominator, delivered, sent, or made as aforesaid, but shall not be revocable or variable by the will of the nominator or any codicil thereto.

(3) The society shall keep a book wherein the names of all persons so nominated and of all revocations or variations, if any, of such nominations shall be regularly entered. And the property comprised in any such nomination shall be payable or transferable to the nominees, although the rules of the society declare the shares to be generally not transferable.

26. (1) On receiving satisfactory proof of the death of a nominator, the committee of the society shall either transfer the property comprised in the nomination in manner directed by it, or pay to every person entitled thereunder the full value of the property given to him, unless the shares comprised therein, if transferred as directed by the nominator, would raise the share capital of any nominee to a sum exceeding two hundred pounds, in which case they shall pay him the value of such shares.

(2) If the total property of the nominator in the society at his death exceeds eighty pounds, the committee shall, before making any payment, require production of a duly stamped receipt for the succession or legacy duty payable thereon, or a letter or certificate stating that no such duty is payable from the Commissioners of Inland Revenue, who shall give such receipt, letter, or certificate, on payment of the duty, or satisfactory proof of no duty being payable, as the case may be.

27. (1) If any member of a registered society entitled to property therein in respect of shares, loans, or deposits, not exceeding in the whole, at his death, one hundred pounds, dies intestate, without having made any nomination thereof then subsisting, the committee may, without letters of administration, distribute the same among such persons as appear to them, on such evidence as they deem satisfactory, to be entitled by law to receive the same, subject, if such property exceeds eighty pounds, to the obtaining from the Commissioners of Inland Revenue a receipt for the succession or legacy duty payable thereon, or a letter or certificate stating that no such duty is payable.

(2) If any such member is illegitimate and leaves no widow, widower, or issue, the committee shall deal with his property in the society as the Treasury shall direct.

28. If elsewhere than in Scotland the whole personal estate, or in Scotland the whole movable estate, of any person entitled to make a nomination under this Act exceeds one hundred pounds sterling, any sum paid under this Act without probate or letters of administration shall, notwithstanding such nomination or payment, be liable to probate duty as part of the amount on which such duty is charged, and the committee, before making any such payment, may require a statutory declaration by the claimant or one of the claimants that the total personal or movable estate of the deceased, including the sum in question, does not, after deductions of debts and funeral expenses, exceed the value of one hundred pounds.

29 Where a member or person claiming through a member of a society is insane, and no committee of his estate or trustee of his property has been duly appointed, the society may, when it is proved to the satisfaction of the committee that it is just and expedient so to do, pay the amount of the shares, loans, and deposits not exceeding one hundred pounds belonging to such member or person, to any person whom they shall judge proper to receive the same on his behalf, whose receipt shall be a good discharge to the society for any sum so paid.

30. All payments or transfers made by the committee of a registered society, under the provisions of this Act with respect to payments or transfers to or on behalf of deceased or insane members, to any person who at the time appears to the committee to be entitled thereunder, shall be valid and effectual against any demand made upon the committee or society by any other person.

31. (1) When any person in whose name any stock belonging to a registered society transferable at the Bank of England or Bank of Ireland is standing, either jointly with another or others or solely, as a trustee therefor, is absent from Great Britain or Ireland respectively, or becomes bankrupt, or

files any petition or executes any deed for liquidation of his affairs by assignment or arrangement, or for composition with his creditors, or becomes a lunatic, or is dead, or has been removed from his office of trustee, or if it be unknown whether such person is living or dead, the chief registrar, on application in writing from the secretary and three members of the society, and on proof satisfactory to him, may direct the transfer of the stock into the names of any other persons as trustees for the society.

(2) The transfer shall be made by the surviving or continuing trustees, and if there be no such trustee, or if such trustees refuse or be unable to make such transfer, and the chief registrar so directs, then by the Accountant-General or Deputy or Assistant Accountant-General of the Bank of England or Bank of Ireland, as the case may be.

(3) The Banks of England and Ireland are hereby indemnified for anything done by them or any of their officers in pursuance of this provision against any claim or demand of any person injuriously affected thereby.

32. A person under the age of twenty-one but above the age of sixteen may be a member of a registered society, unless provision be made in the rules thereof to the contrary, and may, subject to the rules of the society, enjoy all the rights of a member (except as by this Act provided), and execute all instruments and give all acquittances necessary to be executed or given under the rules, but shall not be a member of the committee, trustee, manager or treasurer of the society.

33. A promissory note or bill of exchange shall be deemed to have been made, accepted, or endorsed on behalf of any society if made, accepted, or endorsed in the name of the society, or by or on behalf or on account of the society, by any person acting under the authority of the society.

34. Any register or list of members or shares kept by any society shall be *primâ facie* evidence of any of the following particulars entered therein :—

(*a*) The names, addresses, and occupations of the members, the number of shares held by them respectively, the numbers of such shares, if they are distinguished by numbers, and the amount paid or agreed to be considered as paid on any such shares ;

(*b*) The date at which the name of any person, company, or society was entered in such register or list as a member ;

(*c*) The date at which any such person, company, or society ceased to be a member.

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Property and Funds of Registered Society.

36. A registered society may (if its rules do not direct otherwise) hold, purchase, or take on lease in its own name any land, and may sell, exchange, mortgage, lease, or build upon the same, or grant bonds and dispositions on security or other heritable securities over the same.

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38. (1) A registered society may invest any part of its capital in or upon any security authorised by its rules, and also, if the rules do not direct otherwise—

(*a*) in or upon any security in which trustees are, for the time being, authorised by law to invest ; and

(*b*) in or upon any mortgage, bond, debenture, debenture stock, corporation stock, annuity, rent charge, rent, or other security (not being securities payable to bearer) authorised by or under any Act of Parliament passed or to be passed of any local authority as defined by section thirty-four of the Local Loans Act, 1875 ; and

(*c*) in the shares or on the security of any other society registered or deemed to be registered under this Act, or under the Building Societies Acts, or of any company registered under the Companies Acts or incorporated by Act of Parliament or by charter, provided that no such investment be made in the shares of any society or company other than one with limited liability.

(2) A society so investing shall be deemed to be a person within the meaning of the Companies Acts, and of the Building Societies Acts.

(3) Any investments made before the passing of this Act, which would have been valid if this Act had then been in force, are hereby ratified and confirmed.

39. A society (not being one chargeable with income tax in pursuance of this Act) may invest its capital and funds, or any part thereof to any amount, in any savings bank certified under the Trustee Savings Banks Act, 1863, or in a post office savings bank.

40. The rules of a registered society may provide for advances of money to members on the security of real or personal property, or in the case of a society registered to carry on banking business in any manner customary in the conduct of such business.

41. A registered society which has invested any part of its capital in the shares or on the security of any other body corporate may appoint as proxy any one of its members although such member is not personally a shareholder of such other body corporate. The proxy shall, during the continuance of his appointment, be taken in virtue thereof as holding the number of shares held by the society by whom he is appointed for all purposes except the transfer of any such shares, or the giving receipts for any dividends thereon.

42. Any other body corporate may, if its regulations permit, hold shares by its corporate name in a registered society.

Discharge of Mortgages by Receipt endorsed.

43. In England and Ireland—

(1) A receipt in full, signed by two members of the committee, and countersigned by the secretary, of a registered society, for all moneys secured to the society on the security of any property to which such receipt relates, and being in the Form A. in the Third Schedule to this Act, or in any other form specified in the rules of the society or any schedule thereto, if endorsed on or annexed to any mortgage or assurance, shall vacate the same and vest the property therein comprised in the person entitled to the equity of redemption thereof without any formal re-conveyance or surrender.

(2) If such mortgage or other assurance has been registered under any Act for the registration or record of deeds or titles, or is of copyholds or lands of customary tenure, and is entered on any court rolls, the registrar under such Act, or recording officer, or steward of the manor, or keeper of the register, shall, on production of such receipt verified by oath or statutory declaration of any person, enter satisfaction on the register or on the court rolls respectively of such mortgage or of the charge made by such assurance, and shall grant a certificate, either upon such mortgage or assurance, or separately to the like effect, which certificate shall be received in evidence in all courts and proceedings without further proof; and such registrar, recording officer, steward, or keeper of the register shall be entitled, for making the said entry and granting the said certificate, to a fee of two shillings and six pence, which in Ireland shall be paid by stamps and applied in accordance with the Public Offices Fees Act, 1879.

45. Where a registered society is in liquidation, the signature to such a receipt as aforesaid of the liquidator or liquidators for the time being, described as such, shall have the same effect, and shall be entitled to the same exemption from stamp duty, as would under this Act attach to a similar receipt signed as aforesaid if the society were not in liquidation.

46. (1) Any deed or writ to which any registered society is a party shall be held to be duly executed on behalf of such society in Scotland if it is either executed in conformity with the present law thereof or is sealed with the common seal of the society, subscribed on its behalf by two members of the committee and the secretary of the society, whether such subscription is attested by witnesses or not.

(2) On payment of all moneys intended to be secured to a society by any of the aforesaid securities, the debtor or his successor or representatives shall be entitled to a receipt in the appropriate form provided by this Act.

Officers in receipt or charge of Money.

47. Every officer of a registered society having receipt or charge of money, if the rules of the society require, shall, before taking upon himself the execution of his office, become bound, either with or without a surety as the committee may require, in a bond according to one of the forms set forth in the Third Schedule to this Act, or such other form as the committee of the society approve, or give the security of a guarantee society, in such sum as the committee directs, conditioned for his rendering a just and true account of all moneys received and paid by him on account of the society at such times as its rules appoint, or as the society or the committee thereof require him to do, and for the payment by him of all sums due from him to the society.

48. (1) Every officer of a registered society having receipt or charge of money, or his executors or administrators, shall, at such times as by the rules of the society he should render account, or upon demand made, or notice in writing given or left at his last or usual place of residence, give in his account as may be required by the society, or by the committee thereof, to be examined and allowed or disallowed by them, and shall, on the like demand or notice, pay over all moneys and deliver all property for the time being in his hands or custody to such person as the society or the committee appoint; and in case of any neglect or refusal to deliver such account, or to pay over such moneys or to deliver such property in manner aforesaid, the society may sue upon the bond or security before mentioned, or may apply to the county court (which may proceed in a summary way), or to a court of summary jurisdiction, and the order of either such court shall be final and conclusive.

(2) This section shall apply to every servant of a registered society in receipt or charge of money in every case where he is not engaged under a special agreement to account.

Disputes.

49. (1) Every dispute between a member of a registered society, or any person aggrieved who has for not more than six months ceased to be a member of a registered society, or any person claiming through such member or person aggrieved, or claiming under the rules of a registered society, and the society or an officer thereof, shall be decided in manner directed by the rules of the society, if they contain any such direction, and the decision so made shall be binding and conclusive on all parties without appeal, and shall not be removable into any court of law or restrainable by injunction; and application for the enforcement thereof may be made to the county court.

(2) The parties to a dispute in a society may, by consent (unless the rules of such society expressly forbid it), refer such dispute to the chief registrar, or to the assistant registrar in Scotland or Ireland, who shall, with the consent of the Treasury, either by himself or by any other registrar, hear and determine such dispute, and shall have power to order the expenses of determining the same to be paid either out of the funds of the society or by such parties to the dispute as he shall think fit, and such determination and order shall have the same effect and be enforceable in like manner as a decision made in the manner directed by the rules of the society.

(3) The chief or other registrar to whom any dispute is referred may administer oaths, and may require the attendance of all parties concerned and of witnesses, and the production of all books and documents relating to the matter in question; and any person refusing to attend, or to produce any documents, or to give evidence before such chief or other registrar, shall be guilty of an offence under this Act.

(4) Where the rules of a society direct that disputes shall be referred to justices, the dispute shall be determined by a court of summary jurisdiction:

Provided that in every case of dispute cognisable under the rules of a society by a court of summary jurisdiction, it shall be lawful for the parties thereto to enter into a consent referring such dispute to the county court, which may hear and determine the matter in dispute.

(5) Where the rules contain no direction as to disputes, or where no decision is made on a dispute within forty days after application to the society for a reference under its rules, the member or person aggrieved may apply either to the county court, or to a court of summary jurisdiction, which may hear and determine the matter in dispute.

(6) Notwithstanding anything contained in the Arbitration Act, 1889, or in any other Act, the court and the chief or other registrar shall not be compelled to state a special case on any question of law arising in the case, but the court or chief or other registrar, may, at the request of either party, state a case for the opinion in England or Ireland of the Supreme Court of Judicature, and in Scotland of either division of the Inner House of the Court of Session, on any question of law, and may also grant to either party such discovery as to documents and otherwise, or such inspection of documents, and in Scotland may grant such warrant for the recovery of documents and examination of havers, as might be granted by any court of law or equity; such discovery to be made on behalf of the society by such officer of the same as such court or registrar may determine.

Inspection of Affairs.

50. (1) Upon the application of one-tenth of the whole number of members of a registered society, or of one hundred members in the case of a society exceeding one thousand members, the chief registrar, or, in the case of societies registered and doing business exclusively in Scotland or Ireland, the assistant registrar for Scotland or Ireland respectively, but with the consent of the Treasury in every case, may—

(*a*) appoint an inspector or inspectors to examine into and report on the affairs of such society; or

(*b*) call a special meeting of the society.

(2) The application under this section shall be supported by such evidence, for the purpose of showing that the applicants have good reason for requiring such inspection to be made or meeting to be called, and that they are not actuated by malicious motives in their application, and such notice thereof shall be given to the society, as the chief registrar shall direct.

(3) The chief registrar or such assistant registrar may, if he think fit, require the applicants to give security for the costs of the proposed inspection or meeting before appointing any inspector or calling such meeting.

(4) All expenses of and incidental to any such inspection or meeting shall be defrayed by the members applying for the same, or out of the funds of the society, or by the members or officers, or former members or officers, of the society in such proportions as the chief registrar or such assistant registrar shall direct.

(5) An inspector appointed under this section may require the production of all or any of the books, accounts, securities, and documents of the society, and may examine on oath its officers, members, agents, and servants in relation to its business, and may administer an oath accordingly.

(6) The chief registrar or such assistant registrar may direct at what time and place a special meeting under this section is to be held, and what matters are to be discussed and determined at the meeting, and the meeting shall have all the powers of a meeting called according to the rules of the society, and shall in all cases have power to appoint its own chairman, any rule of the society to the contrary notwithstanding.

Change of Name: Amalgamation: Conversion.

51. For the purposes of this Act a special resolution shall mean a resolution which is—

(*a*) passed by a majority of not less than three-fourths of such members of a registered society for the time being entitled under the rules to vote as may have voted in person, or by proxy where the rules allow proxies, at any general meeting of which notice, specifying the intention to propose the resolutions, has been duly given according to the rules; and

(*b*) confirmed by a majority of such members for the time being entitled under the rules to vote as may have voted in person, or by proxy where the rules allow proxies, at a subsequent general meeting of which notice has been duly given, held not less than fourteen days nor more than one month from the day of the meeting at which such resolution was first passed.

At any meeting mentioned in this section a declaration by the chairman that the resolution has been carried shall be deemed conclusive evidence of the fact.

52. A registered society may, by special resolution, with the approval in writing of the chief registrar, or, in the case of societies registered and doing business exclusively in Scotland or Ireland, the assistant registrar for Scotland or Ireland respectively, change its name; but no such change shall affect any right or obligation of the society, or of any member thereof, and any pending legal proceedings may be continued by or against the society notwithstanding its new name.

53. (1) Any two or more registered societies may, by special resolution of both or all such societies, become amalgamated together as one society, with or without any dissolution or division of the funds of such societies or either of them, and the property of such societies shall become vested in the amalgamated society without the necessity of any form of conveyance other than that contained in the special resolution amalgamating the societies.

(2) Any registered society may by special resolution transfer its engagements to any other registered society which may undertake to fulfil the engagements of such society.

54. (1) A registered society may by special resolution determine to convert itself into a company under the Companies Acts, or to amalgamate with or transfer its engagements to any such company.

(2) If a special resolution for converting a registered society into a company contains the particulars by the Companies Acts required to be contained in the memorandum of association of a company, and a copy thereof has been registered at the central office, a copy of such resolution under the seal or stamp of the central office shall have the same effect as a memorandum of association duly signed and attested under the said Act.

(3) If a registered society is registered as, or amalgamates with, or transfers all its engagements to, a company, the registry of such society under this Act shall thereupon become void, and the same shall be cancelled by the chief registrar or by the assistant registrar for Scotland or Ireland

under his direction; but the registration of a society as a company shall not affect any right or claim for the time being subsisting against such society, or any penalty for the time being incurred by such society; and, for the purpose of enforcing any such right, claim, or penalty, the society may be sued and proceeded against in the same manner as if it had not become registered as a company; and every such right or claim, or the liability to such penalty, shall have priority, as against the property of such company, over all other rights or claims against or liabilities of such company.

55. (1) A company registered under the Companies Acts may, by a special resolution, determine to convert itself into a registered society, and, for this purpose, in any case where the nominal value of its shares held by any member other than a registered society exceeds two hundred pounds, may, by such resolution, provide for the conversion of the excess of such share capital over two hundred pounds into a transferable loan stock bearing such rate of interest as may thereby be fixed, and repayable on such conditions only as are in such resolution determined.

(2) A resolution for the conversion of a company into a registered society shall be accompanied by a copy of the rules of the society therein referred to, and shall appoint seven persons, members of the company, who, together with the secretary, shall sign the rules, and who may either be authorised to accept any alterations made by the registrar therein, without further consulting the company, or may be required to lay all such alterations before the company in general meeting for acceptance as the resolution may direct.

(3) With the rules a copy of the special resolution for conversion of the company into a registered society shall be sent to the registrar, who, upon the registration of the society, shall give to it, in addition to the acknowledgment of registry, a certificate similarly sealed or signed that the rules of the society referred to in the resolution have been registered, but in the registered name of the company as a society the word 'company' shall not be used.

(4) A copy of the resolution for the conversion of the company into a registered society under the seal of the company, together with the certificate so issued by the registrar, shall be sent for registration to the office of the Registrar of Joint Stock Companies, and, upon the registration of such resolution and certificate, the conversion shall take effect.

(5) Upon the conversion of a company into a registered society the registry of the company under the Companies Acts shall become void, and shall be cancelled by the Registrar of Joint Stock Companies; but the registration of a company as a registered society shall not affect any right or claim for the time being subsisting against the company, or any penalty for the time being incurred by such company, and, for the purpose of enforcing any such right, claim, or penalty, the company may be sued and proceeded against in the same manner as if it had not become registered as a society. And every such right or claim, and the liability to such penalty, shall have priority as against the property of such society over all other rights or claims against or liabilities of the society.

56. A copy of every special resolution for any of the purposes mentioned in this Act, signed by the chairman of the meeting at which the resolution was confirmed, and countersigned by the secretary of the society, shall be sent to the central office and registered there, and until that copy is so registered the special resolution shall not take effect.

57. An amalgamation or transfer of engagements in pursuance of this Act shall not prejudice any right of a creditor of any registered society party thereto.

Dissolution of Societies.

58. A registered society may be dissolved—

(*a*) by an order to wind up the society, or a resolution for the winding up thereof, made as is directed in regard to companies by the Companies Acts, 1862 to 1890, the provisions whereof shall apply to any such order or resolution, except that the term 'registrar' shall for the purpose of such winding up have the meaning given to it by this Act; or

(*b*) by the consent of three fourths of the members, testified by their signatures to an instrument of dissolution.

59. Any proceedings in the winding up of a registered society which at the passing of this Act are pending in any county court may, on application made by or on behalf of the registrar, with the consent of the Treasury, be transferred to the High Court, and thereupon the Companies (Winding-up) Act, 1890, shall, so far as applicable, apply thereto accordingly.

60. Where a registered society is wound up in pursuance of an order or resolution the liability of a present or past member of the society to contribute for payment of the debts and liabilities of the society, the expenses of winding up, and the adjustment of the rights of contributories amongst themselves, shall be qualified as follows:—

(*a*) No individual, society, or company, who or which has ceased to be a member for one year or upwards prior to the commencement of the winding up, shall be liable to contribute;

(*b*) No individual, society, or company shall be liable to contribute in respect of any debt or liability contracted after he or it ceased to be a member;

(*c*) No individual, society, or company, not a member, shall be liable to contribute, unless it appears to the court that the contributions of the existing members are insufficient to satisfy the just demands on the society;

(*d*) No contribution shall be required from any individual, society, or company exceeding the amount, if any, unpaid on the shares in respect of which he or it is liable as a past or present member;

(*e*) An individual, society, or company shall be taken to have ceased to be a member, in respect of any withdrawable share withdrawn, from the date of the notice or application for withdrawal.

61. Where a society is terminated by an instrument of dissolution:—

(*a*) The instrument of dissolution shall set forth the liabilities and assets of the society in detail, the number of members and the nature of their interests in the society respectively, the claims of creditors (if any) and the provisions to be made for their payment, and

the intended appropriation or division of the funds and property of the society, unless the same be stated in the instrument of dissolution to be left to the award of the chief registrar;

(*b*) Alterations in the instrument of dissolution may be made with the like consents as hereinbefore provided, and testified in the same manner;

(*c*) A statutory declaration shall be made by three members and the secretary of the society that the provisions of this Act have been complied with, and shall be sent to the registrar with the instrument of dissolution; and any person knowingly making a false or fraudulent declaration in the matter shall be guilty of a misdemeanor;

(*d*) The instrument of dissolution and all alterations therein shall be registered in the manner herein provided for the registry of rules, and shall be binding upon all the members of the society;

(*e*) The registrar shall cause a notice of the dissolution to be advertised at the expense of the society in the Gazette and in some newspaper circulating in or about the locality in which the registered office of the society is situated; and unless, within three months from the date of the Gazette in which such advertisement appears, a member or other person interested in or having any claim on the funds of the society commences proceedings to set aside the dissolution of the society in the county court of the district where the registered office of the society is situate, and such dissolution is set aside accordingly, the society shall be legally dissolved from the date of such advertisement, and the requisite consents to the instrument of dissolution shall be considered to have been duly obtained without proof of the signatures thereto.

(*f*) Notice shall be sent to the central office of any proceeding to set aside the dissolution of a society, not less than seven days before it is commenced, by the person by whom it is taken, or of any order setting it aside, within seven days after it is made by the society.

Offences, Penalties, and Legal Proceedings.

62. It shall be an offence under this Act if any registered society—

(1) fails to give any notice, send any return or document, or do or allow to be done any act or thing which the society is by this Act required to give, send, do, or allow to be done; or

(2) wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Act by the chief or any other registrar or other person authorised under this Act, or does any act or thing forbidden by this Act; or

(3) makes a return or wilfully furnishes information in any respect false or insufficient; or

(4) carries on the business of banking when it has any withdrawable share capital, or in carrying on such business does not make out and keep conspicuously hung up such statement as is hereinbefore required, or makes any payment of withdrawable capital contrary to the provisions of this Act.

63. Every offence by a society under this Act shall be deemed to have been also committed by every officer of the same bound by the rules thereof to fulfil the duty whereof such offence is a breach, or, if there be no such officer, then by every member of the committee of the same, unless such member be proved to have been ignorant of or to have attempted to prevent the commission of such offence; and every act or default under this Act constituting an offence, if continued, shall constitute a new offence in every week during which the same continues.

* * * * *

65. If any person wilfully makes, orders, or allows to be made any entry or erasure in, or omission from, any balance sheet of a registered society, or any contribution or collecting book, or any return or document required to be sent, produced, or delivered for the purposes of this Act, with intent to falsify the same, or to evade any of the provisions of this Act, he shall be liable to a fine not exceeding fifty pounds.

66. If any officer of a registered society, or any person on its behalf, uses any seal purporting to be a seal of the society, whereon its name is not so engraved as aforesaid, or issues or authorises the issue of any notice, advertisement, or other official publication of the society, or signs or authorises to be signed on behalf of the society any bill of exchange, promissory note, endorsement, cheque, order for money or goods, or issues or authorises to be issued any bills of parcels, invoice, receipt, or letters of credit of the society, wherein its name is not mentioned in manner aforesaid, he shall be liable to a fine not exceeding fifty pounds, and shall further be personally liable to the holder of any such bill of exchange, promissory note, cheque, or order for money or goods for the amount thereof unless the same is duly paid by the society.

67. It shall be an offence under this Act if any person, with intent to mislead or defraud, gives to any other person a copy of any rules, other than the rules for the time being registered under this Act, on the pretence that the same are existing rules of a registered society, or that there are no other rules of such society, or gives to any person a copy of any rules on the pretence that such rules are the rules of a registered society when the society is not registered.

68. Every society, officer or member of a society, or other person, guilty of an offence under this Act, for which no penalty is expressly provided herein, shall be liable to a fine not exceeding five pounds.

69. (1) Every fine imposed or to be imposed by this Act, or by any regulations under this Act, or by the rules of a registered society, shall be recoverable summarily.

(2) Any such fine, if imposed by this Act or by any regulations thereunder, shall be recoverable at the suit of the chief registrar, or of any assistant registrar, or of any person aggrieved, and, if imposed by the rules of a registered society, shall be recoverable at the suit of the society.

70. (1) In England or Ireland any party may appeal to quarter sessions from any order or conviction made by a court of summary jurisdiction under this Act.

(2) In Scotland any person may appeal from any order or conviction under this Act in accordance with the provisions of the Summary Jurisdiction (Scotland) Acts.

Supplemental.

71. The registrar and high bailiffs of the county courts shall be remunerated for the duties to be performed by them under this Act in such manner as the Treasury, with the consent of the Lord Chancellor, from time to time order and direct.

72. The Treasury may appoint public auditors for the purposes of this Act, and may determine the rates of remuneration to be paid by registered societies for the services of such auditors, but the employment of such auditors shall not be compulsory.

73. (1) The Treasury may determine a scale of fees to be paid for matters to be transacted or for the inspection of documents under this Act.

(2) All fees received by any registrar under or by virtue of this Act shall be paid into the Exchequer.

74. (1) The Treasury may make regulations respecting registry and procedure under this Act, and the forms to be used for such registry, and the duties and functions of the registrar, and the inspection of documents kept by the registrar under this Act, and generally for carrying this Act into effect.

(2) All such regulations shall be laid before both Houses of Parliament within ten days after the making thereof if Parliament is then sitting, or, if not then sitting, then within ten days from the then next assembling of Parliament.

(3) Until otherwise provided by such regulations, the forms contained in the Fourth Schedule to this Act shall be used.

75. Every copy of rules or other instrument or document, copy or extract of an instrument or document, bearing the seal or stamp of the central office, shall be received in evidence without further proof; and every document purporting to be signed by the chief or any assistant registrar, or any inspector or public auditor under this Act, shall, in the absence of any evidence to the contrary, be received in evidence without proof of the signature.

76. Sub-sections six, seven, eight, and nine of section ten of the Friendly Societies Act, 1875, relating to the duties of the chief registrar and assistant registrars, shall, so far as the same are applicable to industrial and provident societies, be incorporated with this Act.

* * * * *

79. In this Act, if not inconsistent with the context, the following terms shall have the meanings hereinafter respectively assigned to them :—

"The registrar" shall mean, for England, the central office established by the Friendly Societies Act, 1875, and, for Scotland or Ireland, the assistant registrar of friendly societies for either country respectively; "the central office" shall mean the central office so established; and "chief registrar" and "assistant registrar" shall mean chief registrar and assistant registrar of friendly societies respectively;

"Land" shall include hereditaments and chattels real, and in Scotland heritable subjects, of whatever description;

"Property" shall include all real and personal estate (including books and papers);

"Registered society" shall mean a society registered or deemed to be registered under this Act;

"Amendment of rule" shall include a new rule, and a resolution rescinding a rule;

"Rules" shall mean the registered rules for the time being, and shall include any registered amendment of rules;

"The committee" shall mean the committee of management or other directing body of a society;

"Persons claiming through a member" shall include the heirs, executors, or administrators, and assigns of a member, and also his nominees where nomination is allowed;

"Officer" shall extend to any treasurer, secretary, member of the committee, manager, or servant, other than a servant appointed by the committee, of a society;

"Meeting" shall include (where the rules of a society so allow) a meeting of delegates appointed by members;

"Office" shall mean the registered office for the time being of a society;

"County court" shall mean, for Scotland, the sheriff court of the county, and, for Scotland, "probate or letters of administration" shall mean confirmation in cases of testate succession, and testament dative in cases of intestate succession;

"Gazette" shall mean the 'London Gazette' for England, the 'Edinburgh Gazette' for Scotland, and the 'Dublin Gazette' for Ireland.

80. The enactments specified in the First Schedule hereto are hereby repealed to the extent appearing in the third column of that schedule.

SCHEDULE I.

ENACTMENTS REPEALED.

Section 80.

Session and Chapter.	Short Title.	Extent of Repeal.
39 & 40 Vict., c. 45	The Industrial and Provident Societies Act, 1876.	The whole Act.
43 Vict., c. 14	The Customs and Inland Revenue Act, 1880.	Section 8.
46 & 47 Vict., c. 47	The Provident Nominations and Small Intestacies Act, 1883.	So much as relates to industrial and provident societies.

SCHEDULE II.

Masters to be provided for by the Rules of Societies Registered under this Act.

Section 10.

1. Object, name, and registered office of the society.

2. Terms of admission of the members, including any society or company investing funds in the society under the provisions of this Act.

3. Mode of holding meetings, scale and right of voting, and of making, altering, or rescinding rules.

4. The appointment and removal of a committee of management, by whatever name, of managers or other officers, and their respective powers and remuneration.

5. Determination of the amount of interest, not exceeding two hundred pounds sterling, in the shares of the society which any member other than a registered society may hold.

6. Determination whether the society may contract loans or receive money on deposit subject to the provisions of this Act from members or others; and, if so, under what conditions, on what security, and to what limits of amount.

7. Determination whether the shares or any of them shall be transferable; and provision for the form of transfer and registration of the shares, and for the consent of the committee thereto; determination whether the shares or any of them shall be withdrawable, and provision for the mode of withdrawal and for payment of the balance due thereon on withdrawing from the society.

8. Provision for the audit of accounts and for the appointment of auditors or a public auditor.

9. Determination whether and how members may withdraw from the society, and provision for the claims of the representatives of deceased members, or the trustees of the property of bankrupt members, and for the payment of nominees.

10. Mode of application of profits.

11. Provisions for the custody and use of the seal of the society.

12. Determination whether, and by what authority, and in what manner, any part of the capital may be invested.

SCHEDULE III.

Form of Statement to be made out by a Society carrying on the business of Banking.

Sections 19, 43, 44, 47.

1. Capital of the society—
   (a) Nominal amount of each share;
   (b) Number of shares issued;
   (c) Amount paid up on shares.
2. Liabilities of the society on the first day of January (or July) last previous—
   (a) On judgments;
   (b) On specialty;
   (c) On notes or bills;
   (d) On simple contract;
   (e) On estimated liabilities.
3. Assets of the society on the same date—
   (a) Government or other securities (stating them);
   (b) Bills of exchange and promissory notes;
   (c) Cash at the bankers;
   (d) Other securities.

* * * * *

FRIENDLY SOCIETIES.*

[38 & 39 Vict., Ch. 60.]

Arrangement of Sections.

Section.

1. Short title of Act.
2. Commencement of Act.
3. Extent of Act.
4. Definitions.

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6. As to existing societies.

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8. Classes of societies.
9. Limited application of Act.
10. The registry office.
11. Registry of societies.
12. Cancelling and suspension of registry.
13. Rules and amendments.
14. Duties and obligations of societies.

* See Vol. I, pp. 185-87.

15. Privileges of societies.
16. Property and funds of societies.
17. Investments with National Debt Commissioners.
18. Loans to members.
19. Accumulating surplus of contributions for member's use.
20. Officers in receipt or charge of money.
21. Legal proceedings.
22. Disputes.
23. Special powers of registrars to be exercised on application from members.
24. Special resolutions and proceedings which may be taken thereon.
25. Dissolution of societies.
26. Militiamen and volunteers not to lose benefits.
27. Limitations of benefits.
28. Payments on death of children.
29. Societies with branches.
29A. Conversion of registered societies into branches.
29B. Registered societies may contribute to funds of other societies.
29C. Forms of acknowledgment of registry for branches.
30. Societies, &c., receiving contributions by collectors.
31. As to cattle insurance and certain other societies.
32. Penalties.
33. Summary procedure and appeals.
34. Regulation of proceedings in county courts.
35. Public auditors.
36. Fees.
36A. Amendment in fees payable on certificates of births or deaths.
37. Payment of salaries and expenses.
38. Regulations to be made for carrying out the Act.
39. Evidence of documents.
40. Application of Act to Isle of Man.
41. Application of Act to Channel Islands.

SCHEDULES.
APPENDIX.

CHAPTER 60.

*An Act to consolidate and amend the Law relating to Friendly and other Societies.** [11TH AUGUST 1875.]

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1. This Act may be cited as The Friendly Societies Act, 1875.

* * * * *

8. The following societies may be registered under this Act, viz.—

(1) Societies (herein called friendly societies) established to provide by voluntary subscriptions of the members thereof, with or without the aid of donations—

For the relief or maintenance of the members, their husbands, wives, children, fathers, mothers, brothers, or sisters, nephews or nieces, or wards being orphans, during sickness or other infirmity, whether bodily or mental, in old age (which shall mean any age after fifty) or in widowhood, or for the relief or maintenance of the orphan children of members during minority;

For insuring money to be paid on the birth of a member's child, or on the death of a member, or for the funeral expenses of the husband, wife, or child of a member, or of the widow of a deceased member, or, as respects persons of the Jewish persuasion, for the payment of a sum of money during the period of confined mourning;

For the relief or maintenance of the members when on travel in search of employment, or when in distressed circumstances, or in case of shipwreck, or loss or damage of or to boats or nets;

For the endowment of members or nominees of members at any age;

For the insurance against fire to any amount not exceeding fifteen pounds of the tools or implements of the trade or calling of the members;

Provided that no society (except as aforesaid) which contracts with any person for the assurance of an annuity exceeding fifty pounds per annum, or of a gross sum exceeding two hundred pounds, shall be registered under this Act:

* * * * *

(2) Societies (herein called cattle insurance societies) for the insurance to any amount against loss by death of neat cattle, sheep, lamps, swine, and horses from disease or otherwise:

(3) Societies for any benevolent or charitable purpose (herein called benevolent societies):

(4) Societies (herein called working men's clubs) for purposes of social intercourse, mutual helpfulness, mental and moral improvement, and rational recreation:

(5) Societies for any purpose which the Treasury may authorise as a purpose to which the powers and facilities of this Act ought to be extended (herein called "specially authorised societies").

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* The text of this Act is printed as modified according to the Amendment Act of 1887. Only such sections as are relevant to the present study are here printed. A new Act is shortly to be passed.

9. The Treasury may limit the application of this Act, as respects specially authorised societies, to such of the provisions herein contained as may be specified in the authority for registering any such society.

10. With respect to the registry office, the following provisions shall have effect:—

(1) There shall be a chief registrar of friendly societies (herein termed "the chief registrar"), and one or more assistant registrars of friendly societies for England (herein termed "assistant registrars for England"), and such chief registrar and assistant registrars for England shall constitute the central office after mentioned. There shall be an assistant registrar of friendly societies for Scotland (herein termed "assistant registrar for Scotland"), and an assistant registrar of friendly societies for Ireland (herein termed "assistant registrar for Ireland").

(2) Every chief registrar and assistant registrar shall be appointed by and shall hold his office during the pleasure of the Treasury.

(3) Every chief registrar shall be a barrister of not less than twelve years standing, and one at least of the assistant registrars for England, and every assistant registrar for Ireland shall be a barrister or solicitor of not less than seven years' standing, and every assistant registrar for Scotland an advocate, writer to the signet, or solicitor of not less than seven years' standing. The central office may also, with the approval of the Treasury, have attached to it such assistants skilled in the business of an actuary aud an accountant as shall from time to time be required for discharging the duties imposed on the office by this Act.

(4) The central office shall exercise all the functions and powers which are now by law vested in the registrar of friendly societies or the registrar of building societies for England, or as respects loan societies, building societies, and societies instituted for purposes of science, literature, or the fine arts, in the barrister appointed to certify the rules of savings banks or friendly societies, and shall be entitled to receive all statutory fees payable to such registrar or barrister, and all enactments relating to such registrar or barrister, so far as respects such societies as aforesaid, shall be construed as applying to the central office.

(5) The central office shall, with the approval of the Treasury, from time to time—

(*a*) prepare and cause to be circulated, for the use of societies, model forms of accounts, balance sheets, and valuations:

(*b*) collect from the returns under this Act and from other sources, and publish and circulate, either generally or in any particular district, or otherwise make known such information on the subject of the statistics of life and sickness, and the application thereof to the business of friendly societies, and from time to time publish generally or in particular districts such particulars of their returns and valuations, and such other information useful to the members of or to persons interested in friendly or other societies registered or which might be registered under this Act, as the chief registrar shall from time to time think fit:

(*c*) cause to be constructed and published tables for the payment of sums of money on death, in sickness, or old age, or on any other contingency forming the subject of an assurance authorised under this Act which may appear to be calculable: Provided, nevertheless, that the adoption of such tables by any society shall be optional.

(6) The chief registrar shall every year lay before Parliament a report of his proceedings and of those of the assistant registrars, and of the principal matters transacted by him and them and of the valuations returned to or caused to be made by the registrar during the year preceding.

(7) The assistant registrars shall, except as after provided, be subordinate to the chief registrar. They shall, within the countries for which they are respectively appointed, exercise all functions and powers by this Act given to the registrar, and may also, by the written authority of the chief registrar, exercise such of the functions and powers by this Act given to the chief registrar as he shall from time to time delegate to them.

(8) Subject to any regulations to be made under this Act, the assistant registrars for Scotland and Ireland respectively shall—

(*a*) exercise all the functions and powers now vested in the registrars of friendly or building societies for Scotland and Ireland respectively, or as respects building societies and societies instituted for purposes of science, literature, or the fine arts, vested in Scotland in the Lord Advocate or his depute appointed to certify the rules of friendly societies there, or in Ireland in the barrister appointed to certify the rules of friendly societies there, and shall be entitled to receive all fees payable to such registrar, Lord Advocate or his depute, or barrister respectively, and so that all provisions in any Acts of Parliament not hereby repealed relating to such registrar, Lord Advocate or his depute, or barrister respectively, shall be construed as applying to such assistant registrars respectively:

(*b*) send to the central office copies of all such documents registered or recorded by them as the chief registrar shall from time to time direct:

(*c*) record all such documents and matters as shall be sent to them for record from the central office, and such other documents and matters as herein provided:

(*d*) circulate and publish, or transmit to or from societies registered within their respective countries, from or to the central office, such information and documents relating to the purposes of this Act as the chief registrar, with the approval of the Treasury, shall from time to time direct:

(*e*) report from time to time their proceedings to the chief registrar as he shall direct.

(9) No assistant registrar for Scotland or Ireland shall refuse to record any rules or amendments of rules which have been registered by the central office.

11. With respect to the registry of societies, the following provisions shall have effect:—

(1) No society can be registered under this Act which does not consist of seven persons at least.

(2) For the purpose of registry an application to register the society, signed by seven members

and the secretary, and written or printed copies of the rules, together with a list of the names of the secretary and of every trustee or other officer authorised to sue and be sued on behalf of the society, shall be sent to the registrar.

(3) No society shall be registered under a name identical with that under which any other existing society is registered, or so nearly resembling such name as to be likely, or in any name likely, in the opinion of the registrar, to deceive the members or the public as to its nature or its identity, and no society shall change its name without the sanction of the chief or an assistant registrar as after provided.

(4) A society (other than a benevolent society or working men's club) shall not be disentitled to registry by reason of any rule for or practice of dividing any part of the funds thereof if the rules thereof contain distinct provision for meeting all claims upon the society existing at the time of division before any such division takes place.

(5) No society assuring to any member a certain annuity shall be entitled to registry, unless the tables of contributions for such assurance, certified by the actuary to the Commissioners for the Reduction of the National Debt, or by some actuary approved by the Treasury, who has exercised the profession of actuary for at least five years, be sent to the registrar with the application for registry.

(6) Societies carrying or intending to carry on business in more than one country shall be registered in the country in which their registered office, as herein mentioned, is situate; but copies of the rules of such societies, and of all amendments of the same, shall, when registered, be sent to the registrar of each of the other countries, to be recorded by him; and until such rules be so recorded the society shall not be entitled to any of the privileges of this Act in the country in which such rules have not been recorded, and until such amendments of rules be recorded the same shall not take effect in such country.

(7) The registrar, on being satisfied that a society has complied with the provisions as to registry in force under this Act, shall issue to such society an acknowledgment of registry, which shall specify the designation of the society, according to the classification herein set forth.

(8) If any registrar refuse to register the society or any rules, the society may appeal from such refusal, as follows:—

(*a*) If the assistant registrar for Ireland refuse to register, to the Court of Queen's Bench at Dublin:

(*b*) If the assistant registrar for Scotland refuse to register, to the Court of Session:

(*c*) If the central office or the chief registrar refuse to register, to the Court of Queen's Bench in England:

(*d*) Either division of the Inner House of the Court of Session, the Court of Queen's Bench at Dublin, and the Judges of the Court of Queen's Bench in England respectively, may make rules or orders as to the form of appeals and the trying thereof and otherwise relating thereto.

(9) If the refusal of registry be overruled on appeal, an acknowledgment of registry shall thereupon be given to the society by the registrar.

(10) The acknowledgment of registry shall be conclusive evidence that the society therein mentioned is duly registered, unless it be proved that the registry of the society has been suspended or cancelled.

12. With respect to the cancelling or suspension of registry the following provisions shall have effect:—

(1) The chief registrar, or in the case of societies registered and doing business in Ireland or Scotland exclusively, the assistant registrar for Ireland or Scotland respectively, may cancel the registry of a society by writing under his hand,—

(*a*) If he thinks fit, at the request of a society, to be evidenced in such manner as he shall from time to time direct:

(*b*) With the approval of the Treasury, on proof to his satisfaction that an acknowledgment of registry has been obtained by fraud or mistake, or that a society exists for an illegal purpose, or has wilfully and after notice from a registrar whom it may concern violated any of the provisions of this Act, or has ceased to exist.

(2) The chief or assistant registrar, in any case in which he might, with the approval of the Treasury, cancel the registry of a society, may suspend the same, by writing under his hand, for any term not exceeding three months, and may, with the approval of the Treasury, renew such suspension from time to time for the like period.

(3) Not less than two months previous notice in writing, specifying briefly the ground of any proposed cancelling or suspension of registry, shall be given by the chief or assistant registrar to a society before the registry of the same can be cancelled (except at its request) or suspended; and notice of every cancelling or suspension shall be published in the Gazette, and in some newspaper circulating in the county in which the registered office of the society is situated, as soon as practicable after the same takes place.

(4) A society may appeal from the cancelling of its registry, or from any suspension of the same which is renewed after six months, in manner herein provided for appeals from the chief registrar's or the registrar's refusal to register respectively.

(5) A society whose registry has been suspended or cancelled shall from the time of such suspension or cancelling (but if suspended, only while such suspension lasts, and subject also to the right of appeal hereby given) absolutely cease to enjoy as such the privileges of a registered society, but without prejudice to any liability actually incurred by such society, which may be enforced against the same as if such suspension or cancelling had not taken place.

13. With respect to the rules of societies the following provisions shall have effect:—

(1) The rules of every society sent for registry shall, according to the class in which the society is to be registered, contain provisions in respect of the several matters mentioned in the second schedule to this Act.

(2) No amendment of a rule made by a registered society shall be valid until the same has been registered under this Act, for which purpose copies of the same, signed by three members and the secretary, shall be sent to the registrar.

(3) The provision herein contained as to appeals from a refusal of registry shall apply to amendments of rules.

(4) The registrar shall, on being satisfied that any amendment of a rule is not contrary to the provisions of this Act, issue to the society an acknowledgment of registry of the same, which shall be conclusive evidence that the same is duly registered.

(5) A copy of the rules of a registered society shall be delivered by the society to every person on demand, on payment of a sum not exceeding one shilling.

(6) If any person, with intent to mislead or defraud, gives to any other person a copy of any rules, laws, regulations, or other documents, other than the rules for the time being registered under this Act, on the pretence that the same or existing rules of a registered society, or that there are no other rules of such society, or gives to any person a copy of any rules on the pretence that such rules are the rules of a registered society when the society is not registered, the person so offending shall be deemed guilty of a misdemeanor.

14. With respect to the duties and obligations of registered societies the following provisions shall have effect:—

(1) Every registered society shall—

(*a*) have a registered office to which all communications and notices may be addressed, and send to the registrar notice of the situation of such office, and of every change therein:

(*b*) from time to time at some meeting of the society, and by a resolution of a majority of the members present and entitled to vote thereat, appoint one or more trustees of the society, and send to the registrar a copy of every resolution appointing a trustee, signed by the trustee so appointed, and by the secretary of the society:

(*c*) once at least in every year submit its accounts for audit either to one of the public auditors appointed as herein mentioned, or to two or more persons appointed as the rules of the society provide, which auditors shall have access to all the books and accounts of the society, and shall examine the general statement of the receipts and expenditure, funds and effects of the society, and verify the same with the accounts and vouchers relating thereto, and shall either sign the same as found by them to be correct, duly vouched, and in accordance with law or specially report to the society in what respects they find it incorrect, unvouched, or not in accordance with law:

(*d*) once in every year before the first day of June send to the registrar a general statement (to be called the annual return) of the receipts and expenditure, funds and effects of the society as audited, which shall show separately the expenditure in respect of the several objects of the society, and shall be made out to the thirty-first December then last inclusively, and a copy of the auditor's report, if any, shall also be sent to the registrar with such general statement; and such annual return shall state whether the audit has been conducted by a public auditor appointed as in this Act provided, and by whom; and, if by any person or persons other than a public auditor, shall state the name, address, and calling or profession of each of such persons, and the manner in which and the authority under which they were respectively appointed:

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(*f*) once at least in every five years either cause its assets and liabilities to be valued by a valuer to be appointed by the society, and send to the registrar a report, signed by such valuer, and which shall also state his address and calling or profession, on the condition of the society, and an abstract to be made by him of the results of his valuation, together with a return containing such information with respect to the benefits assured and contributions receivable by the society, and of its funds and effects, debts and credits, as the registrar may from time to time require, or send to the registrar a return of the benefits assured and contributions receivable from all the members of the society, and of all its funds and effects, debits and credits, accompanied by such evidence in support thereof as the chief registrar prescribes, in which case the registrar shall cause the assets and liabilities of the society to be valued and reported on by some actuary, and shall send to the society a copy of his report, and an abstract of the results of his valuation:

(*g*) allow any member or person having an interest in the funds of the society to inspect the books at all reasonable hours at the registered office of the society, or at any place where the same are kept, except that no such member or person, unless he be an officer of the society, or be specially authorised by a resolution of the society to do so, shall have the right to inspect the loan account of any other member without the written consent of such member:

(*h*) supply gratuitously every member or person interested in the funds of the society, on his application, with a copy of the last annual return of the society for the time being: Provided that it shall be deemed a sufficient compliance with this requirement if the society supplies gratuitously every member or person interested with a balance sheet or other document, duly audited, containing the same particulars as to the receipts and expenditure, funds, and effects of the society as are contained in the annual return:

(*i*) keep a copy of the last annual balance sheet for the time being, and of the last quinquennial valuation for the time being, together with the report of the auditors, if any, always hung up in a conspicuous place at the registered office of the society.

This subsection shall apply to a registered branch of a society as if it were a registered society, except that every notice, copy of a resolution, and annual return required by this subsection to be sent to the registrar, shall be sent through an officer appointed in that behalf by the society of which the branch forms part.

(2) No society shall pay any sum of money upon the death of a member or other person whose death is or ought to be entered in any register of deaths, except upon the production of a certificate of such death, under the hand of the registrar of deaths, or other person having the care of the register of deaths in which such death is or ought to be entered.

This subsection shall not apply to deaths at sea.

(3) It shall be an offence under this Act if any registered society or any officer or member thereof—

(a) fails to give any notice, send any return or document, or do or allow to be done any act or thing which the society, officer, or person is by this Act required to give, send, do, or allow to be done:

(b) wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Act by the chief or any other registrar or other person authorised under this Act, or does any act or thing forbidden by this Act:

(c) makes a return or wilfully furnishes information in any respect false or insufficient.

(4) Every offence by a society under this Act shall be deemed to have been also committed by every officer of the same bound by the rules thereof to fulfil any duty whereof such offence is a breach, or if there be no such officer, then by every member of the committee of management of the same, unless such member be proved to have been ignorant of or to have attempted to prevent the commission of such offence; and every default under this Act constituting an offence, if continued, constitutes a new offence in every week during which the same continues.

(5) Every annual or other return, abstract of valuation, and other document required for the purposes of this Act shall be made in such form and shall contain such particulars as the chief registrar prescribes.

(6) All documents by this section required to be sent to the registrar shall be deposited with the rules of the societies to which the same respectively relate, and shall be registered or recorded by the registrar, with such observations thereon, if any, as the chief registrar shall direct:

Provided that the chief registrar, with the approval of the Treasury, may dispense with the valuation herein required in respect of societies to whose purposes or to the nature of whose operations he may deem the same inapplicable; and the provisions herein contained in respect of the valuation shall not apply to benevolent societies, working men's clubs, or cattle insurance societies, nor to specially authorised societies, unless it be so directed in the authority for registering the same.

15. Registered societies shall be entitled to the following privileges:—

(1) No society or meeting of a society shall be affected by any of the provisions of the Acts of the thirty-ninth George the Third, chapter seventy-nine, or the fifty-seventh George the Third, chapter nineteen, if in such society or at such meeting no business is transacted other than that which directly and immediately relates to the objects of the society as declared in the registered rules thereof, but such society and all officers of the same shall, on request in writing by two justices of the peace, give full information to such justices of the nature, objects, proceedings, and practices of the society, in default whereof the provisions of the Acts in this section referred to shall, so far as applicable, be in force in respect of such society.

(2) Stamp duty shall not be chargeable upon any of the following documents:—

(a) Power, warrant, or letter of attorney, granted by any person as trustee for the transfer of any money of the society invested in his name in the public funds:

(b) Order or receipt for money contributed to or received from the funds of the society by virtue of its rules or of this Act:

(c) Bond given to or on account of the society, or by the treasurer or other officer thereof:

(d) Draft or order, or form of policy, or appointment or revocation of appointment of agent, or other document required or authorised by this Act, or by the rules of the society.

(3) A member of a society (other than a benevolent society or working men's club), not being under the age of sixteen years, may, by writing under his hand delivered at or sent to the registered office of the society, nominate any person, not being an officer or servant of the society, unless such officer or servant is the husband, wife, father, mother, child, brother, sister, nephew, or niece of the nominator, to whom any moneys payable by the society on the death of such member, not exceeding *fifty pounds*,* shall be paid at his decease, and may from time to time revoke or vary such nomination by a writing under his hand similarly delivered or sent; and on receiving satisfactory proof of the death of a nominator, the society shall pay to the nominee the amount due to the deceased member, not exceeding the sum aforesaid.

(4) If any member of a society, entitled from the funds thereof to a sum not exceeding *fifty pounds*, * dies intestate and without having made any nomination under this Act which remains unrevoked at his death, such sum shall be payable, without letters of administration, to the person who appears to a majority of the trustees, upon such evidence as they may deem satisfactory, to be entitled by law to receive the same.

(5) Whenever the society, after the decease of any member, pays any sum of money to the person who at the time appears to the trustees to be entitled under this section, the payment is valid and effectual against any demand made upon the trustees or the society by any other person.

(6) When any person, being or having been a trustee of a society, and whether appointed before or after the legal establishment thereof, in whose name any stock belonging to such society transferable at the Bank of England or Bank of Ireland is standing, either jointly with another or others, or solely, is absent from Great Britain or Ireland respectively, or becomes bankrupt or files any petition or executes any deed for liquidation of his affairs by assignment or arrangement, or for composition with his creditors, or becomes a lunatic, or is dead, or has been removed from his office of trustee, or if it be unknown whether such person is living or dead, the chief registrar, on application in writing from the secretary and three members of the society, and on proof satisfactory to him, may direct the transfer of the stock into the names of any other persons as trustees for the society; and such

* One hundred pounds substituted for "fifty pounds," 46 & 47 Vict., c. 47, s. 3.

transfer shall be made by the surviving or continuing trustees, and if there be no such trustee, or if such trustees refuse or be unable to make such transfer, and the chief registrar so direct, then by the Accountant-General or Deputy or Assistant Accountant-General of the Bank of England or Bank of Ireland, as the case may be; and the Governors and Companies of the Bank of England and Bank of Ireland respectively are hereby indemnified for anything done by them or any of their officers in pursuance of this provision against any claim or demand of any person injuriously affected thereby.

(7) Upon the death, or bankruptcy, or insolvency of any officer of a society having in his possession by virtue of his office any money or property belonging to the society, or if any execution, attachment, or other process be issued, or action or diligence raised against such officer or against his property, his heirs, executors, or administrators, or trustee in bankruptcy or insolvency, or the sheriff or other person executing such process, or the party using such action or diligence respectively shall, upon demand in writing of the trustees of the society, or any two of them, or any person authorised by the society, or by the committee of management of the same, to make such demand, pay such money and deliver over such property to the trustees of the society in preference to any other debts or claims against the estate of such officer.

Bankruptcy or insolvency in the present section includes liquidation of a debtor's affairs by arrangement in England, cessio bonorum of a debtor in Scotland, and a petition for arrangement with creditors in Ireland; and a trustee in bankruptcy or insolvency includes an assignee in Ireland and a judicial factor in Scotland.

(8) A person under the age of twenty-one but above the age of sixteen may be a member of a society, unless provision be made in the rules thereof to the contrary, and may, subject to the rules of the society, enjoy all the rights of a member (except as herein provided), and execute all instruments and give all acquittances necessary to be executed or given under the rules, but shall not be a member of the committee of management, trustee, manager, or treasurer of the society.

Provided as follows:—

(*a*) Societies and branches, consisting wholly of members of any age under twenty-one years, but exceeding three years, may be allowed to register under this Act, subject to such regulations as may be made in that behalf:

(*b*) No rule or practice in force at the commencement of this Act for the admission of members under sixteen years of age shall be deemed contrary to any express provision of this Act as respects any society already registered.

(9) For the purpose of this Act a certificate of the birth or death of any member of or person insured or to be insured with a registered friendly society shall be given under his hand by the registrar of births or deaths, or other person having the care of the register of births or deaths, in which such birth or death is entered, for a sum not exceeding one shilling, in place of all fees or payments in respect of the same, on application being made for the same in such form and under such regulations as shall be approved of by the registrar-general of births, deaths, and marriages for England, Scotland, and Ireland respectively.

(10) A society may subscribe out of its funds to any hospital, infirmary, charitable or provident institution, any annual or other sum which may be necessary to secure to members of the society and their families the benefits of such hospital, infirmary, or other institution, according to its rules.

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18. With respect to loans to members of registered societies, the following provisions shall have effect:—

(1) Not more than one-half of the amount of an assurance on the life of a member of at least one full year's standing may be advanced to him, on the written security of himself and two satisfactory sureties for repayment; and the amount advanced, with all interest thereon, may be deducted from the sum assured, without prejudice in the meantime to the operation of such security.

(2) A society may, out of any separate loan fund to be formed by contributions or deposits of its members, make loans to its members on their personal security, with or without sureties, as may be provided by the rules, subject to the following restrictions:—

(*a*) No loan can at any time be made out of moneys contributed for the other purposes of the society:

(*b*) No member shall be capable of holding any interest in the loan fund exceeding two hundred pounds:

(*c*) No society shall make any loan to a member on personal security beyond the amount fixed by the rules, or shall make any loan which, together with any moneys for the time being owing by a member to the society, shall exceed fifty pounds:

(*d*) No society shall hold at any one time on deposit from its members any moneys beyond the amount fixed by the rules, which shall not exceed two-thirds of the total sums for the time being owing to the society by the members who have borrowed from the loan fund.

19. The rules of a society may provide for accumulating at interest, for the use of any member of the same, any surplus of his contributions to the funds of the society which may remain after providing for any assurance in respect of which the same are paid, and for the withdrawal of such accumulations from time to time.

20. With respect to officers of registered societies having receipt or charge of money, the following provisions shall have effect:—

(1) Every officer, if the rules of the society require, shall, before taking upon himself the execution of his office, become bound with one sufficient surety at the least in a bond according to one of the forms set forth in the third schedule to this Act, or give the security of a guarantee society, in such sum as the society directs, conditioned for his rendering a just and true account of all moneys received and paid by him on account of the society at such times as its rules appoint, or as the society or the trustees or committee of management thereof require him to do so, and for the payment by him of all sums due from him to the society.

(2) Every officer, his executors or administrators, shall, at such times as by the rules of the society he should render account, or upon demand made, or notice in writing given or left at his last or usual place of residence, give in his account as may be required by the society, or by the trustees or committee of management of the society, to be examined and allowed or disallowed by them, and shall, on the like demand or notice, pay over all moneys and deliver all property for the time being in his hands or custody to such person as the society, or the committee of management, or the trustees appoint; and in case of any neglect or refusal to deliver such account, or to pay over such moneys or to deliver such property in manner aforesaid, the trustees or authorised officers of the society may sue upon the bond or security before mentioned, or may apply to the county court (which may proceed in a summary way), or to a court of summary jurisdiction, and the order of either such court shall be final and conclusive.

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22. Every dispute between a member or person claiming through a member or under the rules of a registered society, and the society or an officer thereof, or between any registered branch under the Friendly Societies Acts, or an officer thereof, of any registered society or registered branch and the registered society or branch of which the other party to the dispute is a registered branch, or an officer thereof, or between any two or more registered branches of any registered society or branch, or any officers thereof, respectively, shall be decided in manner directed by the rules of the society, and the decision so made shall be binding and conclusive on all parties without appeal, and shall not be removable into any court of law or restrainable by injunction; and application for the enforcement thereof may be made to the county court.

Provided as follows:—

(*a*) The parties to a dispute in a society may, by consent (unless the rules of such society expressly forbid it), refer such dispute to the chief registrar, or to the assistant registrar in Ireland or Scotland, who shall, with the consent of the Treasury, either by himself or by any other registrar, hear and determine such dispute, and shall have power to order the expenses of determining the same to be paid either out of the funds of the society or by such parties to the dispute as he shall think fit, and such determination and order shall have the same effect and be enforceable in like manner as a decision made in the manner directed by the rules of the society:

(*b*) The chief or other registrar to whom any dispute is referred may administer oaths, and may require the attendance of all parties concerned, and of witnesses, and the production of all books and documents relating to the matter in question; and any person refusing to attend, or to produce any documents, or to give evidence before such chief or other registrar, shall be guilty of an offence under this Act:

(*c*) Where the rules of a society direct that disputes shall be referred to justices, the dispute shall be determined by a court of summary jurisdiction:

Provided that in every case of dispute cognisable under the rules of a society by a court of summary jurisdiction, it shall be lawful for the parties thereto to enter into a consent referring such dispute to the county court which may hear and determine the matter in dispute:

(*d*) Where the rules contain no direction as to disputes, or where no decision is made on a dispute within forty days after application to the society for a reference under its rules, the member or person aggrieved may apply either to the county court, or to a court of summary jurisdiction, which may hear and determine the matter in dispute:

(*e*) The court, chief or other registrar, may, at the request of either party, state a case for the opinion in England of the Supreme Court of Judicature, in Scotland of either division of the Inner House of the Court of Session, or in Ireland of one of the superior courts of common law at Dublin, on any question of law, and may also grant to either party such discovery as to documents and otherwise, or such inspection of documents, and in Scotland may grant warrant for the recovery of documents and examination of havers, as might be granted by any court of law or equity, such discovery to be made on behalf of the society by such officer of the same as such court or registrar may determine.

23. Upon the application of one-fifth of the whole number of members of a registered society, or of one hundred members in the case of a society of one thousand members and not exceeding ten thousand, or of five hundred members in the case of a society of more than ten thousand members, the chief registrar, or the assistant registrar for Scotland or Ireland, or in cases of societies registered and doing business exclusively in Ireland or in Scotland the assistant registrars for Ireland and Scotland respectively, but with the consent of the Treasury in every case, may—

(1) appoint one or more inspectors to examine into the affairs of such society, and to report thereon, who may require the production of all or any of the books and documents of the society, and may examine on oath its officers, members, agents, and servants in relation to its business, and may administer such oath accordingly:

(2) call a special meeting of the society in such manner and at such time and place as the chief registrar or such assistant registrar may direct, and may direct what matters shall be discussed and determined on at such meeting, which shall have all the powers of a meeting called according to the rules of the society, and shall in all cases have power to appoint its own chairman, any rule of the society to the contrary notwithstanding.

Provided that—

(*a*) the application herein mentioned shall be supported by such evidence, for the purpose of showing that the applicants have good reason for requiring such inspection to be made or meeting to be called, and that they are not actuated by malicious motives in their application, and such notice thereof shall be given to the society, as the chief registrar shall direct:

(*b*) the chief registrar or such assistant registrar may, if he think fit, require the applicants to give security for the costs of the proposed inspection or meeting, before appointing any inspector or calling such meeting:

(c) all expenses of and incidental to any such inspection or meeting shall be defrayed by the members applying for the same, or out of the funds of the society, or by the members or officers, or former members or officers, of the society in such proportions as the chief or such assistant registrar shall direct:

(d) this section shall apply to every society to which section thirty of this Act applies, other than an industrial assurance company, but save as aforesaid shall not apply to a society with branches, unless with the consent of the central body of such society.

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25. With respect to the dissolution of registered societies, the following provisions shall have effect:—

(1) A society may terminate or be dissolved in any of the following ways:—

(a) Upon the happening of any event declared by the rules to be the termination of the society:

(b) As respects all societies other than friendly societies, by the consent of three-fourths of the members, testified by their signatures to the instrument of dissolution:

(c) As respects friendly societies, by the consent of five-sixths in value of the members (including honorary members, if any), testified by their signatures to the instrument of dissolution, and also by the written consent of every person for the time being receiving or entitled to receive any relief, annuity, or other benefit from the funds of the society, unless the claim of such person be first duly satisfied, or adequate provision made for satisfying such claim, and in the case of a branch with the consent of the central body of the society, or in accordance with the general rules of the society.

(d) By the award of the chief registrar or assistant registrars in the cases herein specified.

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(8) With respect to dissolutions and the distribution of funds upon the award of the chief registrar:

(a) Upon the application of one-fifth of the whole number of members of any registered society, or of one hundred members in the case of a society of one thousand members and not exceeding ten thousand, or of five hundred members in the case of a society of more than ten thousand members, made in writing under their hands, setting forth that the funds of the society are insufficient to meet the existing claims thereon, or that the rates of contribution fixed in the rules of such society are insufficient to cover the benefits assured, and the grounds upon which such insufficiency is alleged, and requesting an investigation into the affairs of such society with a view to the dissolution thereof, the chief registrar may by himself, or by any assistant registrar, or by any actuary or public auditor whom the chief registrar may appoint in writing under his hand, investigate the affairs of the society, giving nevertheless not less than two months previous notice in writing to the society whose affairs are to be investigated at the registered office of such society:

(b) If upon such investigation it appears that the funds of the society are insufficient to meet the existing claims thereon, or that the rates of contribution fixed in the rules of the society are insufficient to cover the benefits assured to be given by the same, the chief registrar may, if he considers it expedient so to do, award that the society shall be dissolved, and its affairs wound up, and shall direct in what manner the assets of the society shall be divided or appropriated: Provided always, that the chief registrar may suspend his award for such period as he may deem necessary to enable the society to make such alterations and adjustment of contributions and benefits as will in his judgment prevent the necessity of such award of dissolution being made:

(c) A registrar proceeding under this section has all the same powers and authorities, enforceable by the same penalties, as in the case of a dispute referred to him under this Act:

(d) Every award under this section, whether for dissolution or distribution of funds, is final and conclusive on the society in respect of which the same is made, and on all members of the same, and other persons having any claim on the funds of the society, without appeal, and shall be enforced in the same manner as a decision on a dispute under this Act; and the expenses of every investigation and award, and of publishing every notice of dissolution, shall be paid out of the funds of the society before any other appropriation thereof shall be made:

(e) Notice of every award for dissolution shall, within twenty-one days after the same shall have been made, be advertised by the central office in the Gazette, and in some newspaper circulating in the county in which the registered office of the society is situated, and unless, within three months from the date of the Gazette in which such advertisement appears, a member or other person interested in or having any claim on the funds of the society commences proceedings to set aside the dissolution of the society, consequent upon such award, and such dissolution is set aside accordingly, the society shall be legally dissolved from the date of such advertisement, and the requisite consents to the application to the registrar shall be considered to have been duly obtained without proof of the signatures thereto.

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32. With respect to penalties under this Act, the following provisions shall have effect:—

(1) If any person wilfully makes, orders, or allows to be made any entry, erasure in, or omission from any balance sheet of a registered society, or any contribution or collecting book, or any return or document required to be sent, produced, or delivered for the purposes of this Act, with intent to falsify the same, or to evade any of the provisions of this Act, he is liable to a penalty not exceeding fifty pounds, recoverable at the suit of the chief or any assistant registrar or of any person aggrieved.

(2) Every Society, officer or member of a society, or other person guilty of an offence under this Act for which no penalty is expressly provided herein is liable to a penalty of not less than one pound and not more than five pounds, recoverable at the suit of the chief or any assistant registrar or of any person aggrieved.

(3) All penalties imposed by this Act, or to be imposed by any regulations under the same, or by the rules of a registered society, are recoverable in a court of summary jurisdiction.

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35. The Treasury may from time to time appoint public auditors and valuers for the purposes of this Act, and may determine from time to time the rates of remuneration to be paid by societies for the services of such auditors and valuers; but the employment of such auditors and valuers is not compulsory on any society.

36. The Treasury may determine a scale of fees to be paid for matters to be transacted or for the inspection of documents under this Act; but no fee shall be payable on the registry of any friendly, benevolent, or cattle insurance society, or working men's club, or of any amendment of the rules of the same.

All fees which may be received by any registrar under or by virtue of this Act shall be paid into the receipt of Her Majesty's Exchequer.

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37. The Treasury shall, out of money to be provided by Parliament, pay to the chief and assistant registrars such salaries or other remunerations respectively, and such sums of money for defraying the expenses of office rent, salaries of assistants, clerks, and servants, remuneration for actuaries, accountants, and inspectors, computation of tables, publication of documents, diffusion of information, expenses of prosecutions, travelling expenses and other allowances of the chief or any assistant registrar, and other expenses which may be incurred for carrying out the purposes of this Act, and may also pay to any public auditors or valuers to be appointed under this Act such remuneration (if any) as the Treasury shall from time to time allow.

38. The Treasury may from time to time make regulations respecting registry and procedure under this Act, and the seal and forms to be used for such registry, and the duties and functions of the registrar, and the inspection of documents kept by the registrar under this Act, and generally for carrying this Act into effect.

All such regulations shall be laid before both Houses of Parliament within ten days after the approval thereof if Parliament is then sitting, or if not then sitting, then within ten days from the then next assembling of Parliament.

Until otherwise provided, the forms contained in the fourth schedule to this Act shall be used.

39. Every instrument or document, copy or extract of an instrument or document, bearing the seal or stamp of the central office, shall be received in evidence without further proof; and every document purporting to be signed by the chief or any assistant registrar, or any inspector, or public auditor or valuer under this Act, shall, in the absence of any evidence to the contrary, be received in evidence without proof of the signature.

* * * * *

SCHEDULE II.

Matters to be provided for by the Rules of Societies registered under this Act.

1. The name and place of office of the society.

2. The whole of the objects for which the society is to be established, the purposes for which the funds thereof shall be applicable, the terms of admission of members, the conditions under which any member may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any member.

3. The mode of holding meetings and right of voting, and the manner of making, altering, or rescinding rules.

4. The appointment and removal of a committee of management (by whatever name), of a treasurer and other officers, and of trustees, and in the case of a society with branches, the composition and powers of the central body, and the conditions under which a branch may secede from the society.

5. The investment of the funds, the keeping of the accounts, and the audit of the same once a year at least.

6. Annual returns to the registrar of the receipts, funds, effects, and expenditure and numbers of members of the society.

7. The inspection of the books of the society by every person having an interest in the funds of the society.

8. The manner in which disputes between the society and any of its members, or any person claiming through a member or under the rules, shall be settled.

9. In case of dividing societies, a provision for meeting all claims upon the society existing at the time of division before any such division takes place.

And also in the case of friendly and cattle insurance societies :—

1. The keeping separate accounts of all moneys received or paid on account of every particular fund or benefit assured for which a separate table of contributions payable shall have been adopted, and the keeping separate account of the expenses of management, and of all contributions on account thereof.

* * * * *

3. (Except as to cattle insurance societies) a valuation once at least in every five years of the assets and liabilities of the society, including the estimated risks and contributions.

4. The voluntary dissolution of the society by consent of not less than five-sixths in value of the members, and of every person for the time being entitled to any benefit from the funds of the society, unless his claim be first satisfied or adequately provided for.

5. The right of one-fifth of the total number of members, or of one hundred members in the case of a society of one thousand members and not exceeding ten thousand, or of five hundred members in the case of a society of more than ten thousand members, to apply to the chief registrar, or in case of societies registered and doing business exclusively in Ireland or Scotland to the assistant registrar for Ireland or Scotland, for an investigation of the affairs of the society, or for winding up the same

* * * * *

II.

Extracts from 50 & 51 Vict., c. 56.

17. The Acts set forth in the Second Schedule to this Act are hereby repealed to the extent mentioned in the third column of the said schedule, without prejudice to anything done thereunder.

18. (1) The principal Act shall, as from the passing of this Act, take effect subject to the additions, omissions, and substitutions required by this Act.

(2) Any copy of the principal Act printed after the passing of this Act by any of the several printers to the Queen's Most Excellent Majesty duly authorised to print the Statutes of the United Kingdom may be printed with the additions, omissions, and substitutions required by this Act.

SECOND SCHEDULE.

Acts Repealed.

Session and Chapter.	Title.	Extent of Repeal.
38 & 39 Vict., c. 60	The Friendly Societies Act, 1875 ...	So much of section fourteen and of Schedule II as relates to sending to the registrar every five years a return, to be called a quinquennial return, of the sickness and mortality experienced by the society, or as relates to such return.
39 & 40 Vict., c. 32	The Friendly Societies Amendment Act, 1876.	The whole Act.
42 Vict., c. 9	An Act to declare the true meaning of section thirty of the Friendly Societies Act, 1875.	The whole Act.
45 & 46 Vict., c. 35	The Friendly Societies (Quinquennial Returns) Act, 1882.	The whole Act.
48 & 49 Vict., c. 27	The Friendly Societies Amendment Act, 1885.	The whole Act.

AN ACT TO AMEND THE LAWS RELATING TO LOAN SOCIETIES (ENGLAND), 1840.

[3 & 4 Vict., Ch. 110.]*

III. Be it enacted, that if any number of persons who have formed or shall form any society in *England* for establishing a fund for making loans to the industrious classes, and taking payment of the same by instalments, with interest thereon, shall be desirous of having the benefit of this Act, such persons shall cause the rules framed or to be framed for the management of such society to be certified, deposited, and enrolled in manner hereinafter directed, and thereupon shall have the benefit of the provisions contained in this Act.

IV to VI. (Three copies of the rules are to be sent to the barrister appointed to certify the rules of savings banks, who shall examine into their legality, and suitability to the objects of the society, and shall give his advice thereon ; on approval he shall issue his certificate, and forward a copy of the certified rules to the court of Quarter Sessions which shall confirm and file them without costs or charge; the rules shall then become binding. The barrister's fee shall not exceed one guinea, nor shall he demand any further fee within three years, even though consulted regarding the rules.†)

IX. And be it enacted, that for every sum of money deposited or to be deposited with any loan society, otherwise than by way of gift, it shall be lawful for such society, if they shall think fit, to issue a debenture, to be registered in the books of the loan society by whom such debenture shall be payable; and no such debenture shall be liable to any stamp duty or parliamentary imposition whatever.‡

X. And be it enacted, that no treasurer, trustee, or other officer of any loan society subscribing, *i.e.*, signing debenture shall be individually responsible, in person or property, for the payment of the same, or of any interest thereon; but such debenture shall be a charge on the capital and property of

* The Act is not very successful, and the Registrar of Friendly, &c., Societies considers that it should be repealed, since it grants several important fiscal privileges, while advantage is frequently taken of its very general wording (*see* section III) by money-lenders who establish themselves as so-called 'societies.' Under proper restriction some of its provisions are useful. Many sections are either omitted or merely abstracted.

† The barrister here mentioned is the Registrar for Friendly, &c., Societies who has very important duties to perform as a State commissioner : *see* Vol. I, pp. 185–86, &c.

‡ *See* section XXXV in the Irish Act (1843) next following.

the society alone, unless such treasurer, trustee, or other officer shall, in the instrument or by writing at the foot or on the back thereof, declare his or their willingness to be so liable in person or property; and such understanding shall only apply to the specific sums so guaranteed.

XI. And be it enacted, that in case any debenture holder, depositor, or other claimant, entitled to receive any sum not exceeding fifty pounds out of the funds of any such loan society, shall die, it shall be lawful for the trustees or trustee thereof, from and after the expiration of three calendar months after the death of such debenture holder, depositor, or other claimant, if they shall be satisfied that no will was made and left by such deceased person, and that no letters of administration of the goods, chattels, rights, and credits of such deceased person have or will be taken out, to pay the same to any person who shall appear to the said trustees or trustee to be the person or one of the persons entitled under the statute of distribution to the effects of the deceased intestate, although no letters of administration shall have been taken out; and the payment of any such sum of money shall be valid and effectual with respect to any demand of any other person as next of kin of such deceased intestate, or as the lawful representative of such person, against the funds of such society, or against the trustee, treasurer, or officers thereof; but nevertheless such next of kin or representatives shall have remedy for such money so paid as aforesaid against the person who shall have received the same.

XII. (Every treasurer or other person entrusted with money must give due security by means of a bond.)

XIII. And be it enacted, that it shall not be lawful for any such society to lend to any person at the same time a greater sum than fifteen pounds, and that no second or other loan shall be made to the same person until the former loan shall have been repaid.

XIV. And be it enacted, that no note which shall be signed for the repayment of any loan made under this Act, nor any receipt or entry in any book of receipt for money lent or paid, nor any draft or order, nor any appointment of any agent, nor any other instrument whatever required to be made in pursuance of this Act, or of the rules of the society, shall be chargeable with any stamp duty whatever.

XV. And be it enacted, that no note of hand, bill, or other security for the payment of money taken by any such society shall be transferable by endorsement or otherwise to any person or party whomsoever, nor shall any such note, bill, or other security be sued upon by any person or party other than the society to whom the same shall have been made.

XVI. (Provides that on any default of payment a notice in writing shall be served on the defaulter; on further default any J. P. may take cognizance of a complaint made by the society, and, on due proof, shall order the payment of the arrears with moderate costs; failing such payment the J. P. shall issue his warrant for the distress and sale of the goods of the defaulter. No such complaint shall be removable by writ, &c., into any other court; the action of the society shall not, however, bar the rights of the landlord for his rent, so that the goods, though distrained, are still liable for the preferential right of the landlord).

XVII. (The society may also sue in the county or other court.)

XX. (The society may demand an enquiry fee from a candidate for a loan; such fee shall not exceed 1*s.* 6*d.*)

XXI. And be it enacted, that it shall be lawful for the trustees or trustee of any society established under the provisions of this Act to demand and receive from every person to whom a loan shall be made, by way of discount, at the time of making the same, the full amount which shall be specified by the enrolled rules of the society, not exceeding in the whole the rate of twelve pounds by the hundred, for the full term of one year, and to receive the amount of the principal sum of instalments, at such time or times, and in such proportion or proportions, as shall be specified by the enrolled rules, but so nevertheless that the first repayment shall not be paid sooner than the eleventh day after the day on which the loan shall have been actually granted and advanced, and that the time and manner of paying such instalments shall be taken into account in the calculation of the interest to be paid, and to take a note of hand for the whole amount of the loan, by which the same or so much thereof as shall then remain unpaid shall be recoverable immediately on failure of the payment of any instalment, without being liable on account thereof to any of the forfeitures or penalties imposed by any Act or Acts relating to usury.

XXII. And be it declared and enacted, that the instalments to be paid, and the corresponding sum charged for interest, may be such as is expressed in any one of the schemes mentioned in the schedule (E) to this Act annexed, and that the scheme which is adopted by any society, and the actual number of shillings and pence taken by way of interest for every loan, shall be fully and clearly set forth in the enrolled rules of such society; and that if such scheme shall in any respect differ from every one of the schemes set forth in the said schedule (E), it shall not be lawful for the said barrister to certify the rules of such society, until a certificate shall have been obtained under the hand of the actuary to the National Debt Office, to the effect that the rate of interest proposed to be taken, including therein all charges whatsoever, except the aforesaid sum of one shilling and six pence, or so much thereof as shall be charged for the form of application and expense of inquiry, is not greater than is allowed by this Act; for which certificate the said actuary shall be entitled to have a fee of one guinea, and no more.

XXIII. (The above enquiry fee and interest shall comprise the whole charges of every description which may be made for the loan).

XXVII. And be it enacted, that the trustees of every society established under the provisions of this Act, or which may become entitled to the benefits thereof, shall cause an abstract of the accounts of such society for each year to be made out, and up to the thirty-first day of *December*, together with a statement of the funds and effects and of the debts or liabilities of such society, and an estimate of the clear net profit or loss up to that period, which abstract, statement, and estimate shall be in such forms, and shall contain such particulars connected with the accounts and transactions of such society,

as the barrister appointed to certify the rules of saving banks shall from time to time direct; and a copy of such abstract, statement, and estimate, duly certified to be correct by the secretary, treasurer, and at least one trustee, shall, during the month of *January* in each year, be delivered or sent to the said barrister, and shall be laid by him before both Houses of Parliament; and every society which shall refuse or neglect to deliver such account as aforesaid shall be liable to a penalty of fifty pounds, to be recovered, at the suit of the said barrister, against the trustees of the society, in any of Her Majesty's Superior Courts of Record: provided always, that the trustees shall not be liable, in their persons or goods, to the consequences of any judgment obtained against them in any such suit, but the same shall avail and be enforced only against the stock and goods of the society in their hands or within their control.

SCHEDULE E.

Number of scheme.	Amount of weekly instalment.	Day on or after which the first instalment is payable, reckoning the day after the loan as the first.	Sum which may be taken by way of interest at the time of advancing the loan.
1	Two shilings per five pounds	Eleventh	Six shillings per five pounds.
2	Six pence per pound	Sixteenth	Twelve pence per pound.
3	Eight pence per pound	Twenty-first	Ten pence per pound.
4	Four shillings per five pounds	Thirty-eighth	Four shillings per five pounds.
5	Ten pence per pound	Twenty-first	Eight pence per pound.
6	One shilling per pound	Thirty-fifth	Eight pence per pound.
7	Two shillings per pound	Seventieth	Eight pence per pound.
8	Two shillings and six pence per pound ...	Seventy-seventh	Eight pence per pound.
9	Four shillings per pound	Sixty-second	Six pence per pound.
10	Five shillings per pound	Sixty-sixth	Six pence per pound.
11	Ten shillings per pound	Seventy-third	Six pence per pound.
12	Twenty shillings per pound	Seventy-sixth	Six pence per pound.

In these schemes all instalments after the first are to be paid weekly.

Other schemes may be formed from these by advancing or postponing the day of payment of the first instalment, provided that the first payment is not made sooner than the eleventh day, and that not more than one penny per pound is added to the interest for every thirteen days of such postponement, or that not less than one penny per pound is taken off the interest for every thirteen days of such advance.

Thus: scheme 6 may be altered by making the first instalment payable on the twenty-second day after the loan, and taking seven pence per pound for interest, and so of the rest.

AN ACT TO CONSOLIDATE AND AMEND THE LAWS FOR THE REGULATION OF CHARITABLE * LOAN SOCIETIES IN IRELAND, 1843.

[6 & 7 Vict., Ch. 91].

II. And be it enacted, that for the general control and superintendence of all charitable loan societies and charitable pawn or deposit offices established or to be established in *Ireland* under the authority of the said recited Acts or this Act there shall be a board in *Dublin*, to be denominated "The loan fund board," which board shall consist of such persons as at present constitute the loan fund board established under the authority of the said recited Act of the sixth and seventh years of his late Majesty King *William* the *Fourth*, and of such other person as shall, from time to time, be appointed a member of the said board by the Lord Lieutenant of *Ireland;* and at any meeting of the said board, duly convened, three members shall be competent to do and execute all acts which the said board are hereby enabled to do and execute.

III. (The Lord Lieutenant may remove members and appoint and remove the secretary, inspectors and staff).

IV. (The board shall superintend all loan, pawn, &c., societies established under the Act, especially with the view of ascertaining the legality and propriety of the rules, the due observance of the same and the due application of the funds, and may provide the necessary expenses for inspectors, clerks, &c., necessary for such superintendence, subject to a limit to be prescribed by the treasury).

VI. (Funds to be deposited in the Bank of Ireland, and only to be withdrawn by drafts signed by at least three members of the board and countersigned by the secretary at the regular meetings of the board).

VII. (The board must annually report to Parliament, with accounts showing its funds, the sources and modes of expenditure thereof, the balance, and the amount of loans outstanding).

IX. And be it enacted, that it shall and may be lawful to and for any number of persons in *Ireland*, subject to the restrictions and regulations herein-after provided, to form themselves into a society in

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* The word "Charitable" is somewhat misleading, as the loans, though at low interest, are on a business footing. Probably the word "Beneficial" would be more suitable, as they were intended to combat the money lender and to assist the poor to provide themselves with tools, seed, cattle, &c.

One chief peculiarity of this Act is that it places all loan societies formed under the Act, under the general control and superintendence of a board established for the purpose, the members of which are to be appointed by the Lord Lieutenant.

Ireland in any district or place in which it shall be proved to the satisfaction of the said loan fund board that such society is required, and such society shall and may raise from time to time by loans from the members of such society, or from other persons, at a rate of interest not exceeding five pounds *per centum per annum*, or by donations, a stock or fund for the purpose of granting loans to the industrious classes resident therein, and receiving repayment of the same by instalments, with interest as herein-after provided; and it shall be in like manner lawful for any number of persons in *Ireland*, subject to the restrictions and regulations herein-after provided, to form themselves into a society for the purpose of establishing or maintaining a charitable pawn or deposit office or offices in *Ireland*, at which money may be lent to the industrious classes resident therein upon pledges or deposits, at such rate of interest, not exceeding the rate of interest which now is or may be hereafter legally chargeable by pawnbrokers in *Ireland*, as the said loan fund board may from time to time appoint; and it shall and may be lawful for the members of every such society from time to time to make, subject to the restrictions hereinafter contained, rules for the better government and guidance of the same, and for defining the district, by townlands or otherwise, within which the operations of the society ought to be conducted, and for fixing the charges for application papers, instalments, cards and duplicates, and for the imposition of fines upon the several persons obtaining loans from the funds of any such society, and the officers and members thereof, offending against or violating such rules, and also from time to time to alter and amend such rules as occasion shall require, or to annul and repeal the same, and to make new rules in lieu thereof, so as such rules shall not be repugnant to the laws of this realm, nor to any of the express provisions or regulations of this Act.

X. And be it enacted, that three transcripts, fairly written or printed on paper or parchment, of all rules, or of any alteration or amendment thereof, made in pursuance of this Act, signed by at least three members of such society, shall be transmitted to the said loan fund board for their consideration; and in case the said board shall approve of any such rules, amendments, or alterations as shall be so transmitted to them as aforesaid, they shall cause the same to be submitted to such barrister as shall from time to time be appointed by the said board established under the authority of this Act (which barrister the said board is hereby authorized and required to appoint), for the purpose of ascertaining whether the said rules of such society, or such alterations or amendments thereof, as shall be so submitted to him, are in conformity to law and to the provisions of this Act.

XI. And be it enacted, that in case the said loan fund board shall disapprove of any rule made by any loan society, and submitted to them as aforesaid, or of any alteration or amendment of any such rule, such rule, or amendment or alteration thereof, shall be null and void: provided always that in every such case it shall be lawful for such society, or for the persons desiring to form any such intended society, within one calendar month after notice shall be given to them of such decision of the said board as aforesaid, to appeal against such decision to the Lord Lieutenant of *Ireland* and Her Majesty's Privy Council there, who shall have power and authority on such appeal to approve or disapprove of such rule, or amendment or alteration thereof; and if they shall disapprove thereof, then and in such case the same shall be null and void to all intents and purposes; but if they shall approve thereof, then and in such case the said loan fund board shall submit the same to such barrister as aforesaid, for the purpose aforesaid, in like manner as herein-before directed in the case of rules approved of by such loan fund board.

XII to XIV. (The barrister is to advise upon the rules and to certify as to their conformity or otherwise with the law; he is entitled to a fee of one guinea, but not oftener than once in three years on the same set of rules. Then so certified, and approved by the board, the rules shall be re-transmitted to the loan, &c., society with the countersignature of the secretary to the board, and with a certificate from the board to the effect that the rules are legal and have been approved by the board; the rules shall take effect from the date of such certificate).

XVIII. (All funds and property of any loan, &c., society must be vested in trustee or trustees).

XX. And be it enacted, that it shall not be lawful for any person, being a trustee, treasurer, honorary secretary, director, member of the managing committee of any such society, or having any control in the direction or management thereof, to receive, directly or indirectly, any salary or other remuneration for attendance or any other services performed for such society; and no salaried clerk or other paid officer or servant of such society shall be a member of its committee of management, or in anywise act or vote in the direction of its affairs.

XXI. (Treasurers and any others entrusted with the money of any loan, &c., society, and other officers and servants when necessary, shall give security when required by the loan fund board: the bonds to be made out to the secretary of such board).

XXIV. And be it enacted, that it shall not be lawful to and for any such society to make any loan on personal security to any one individual at any one time exceeding in amount the sum of ten pounds; and that no second or other loan shall be made to the same individual, or to any person on his behalf or for his use, until the previous loan shall have been repaid.

XXV. And be it enacted, that every note or security to be taken by any loan society established under the provisions of this Act for the repayment of any loan granted by any such society shall be in the form number 2, in schedule (A) hereunto annexed, or to the like effect, and blank forms for such note shall be supplied by the said loan fund board as herein-after provided; and that no proceedings shall be had or order made for the recovery of any loan fines or interest under this Act, save and except where the note or security for such loan shall be in the form and on the paper supplied by the said board.

XXVI. And be it enacted, that no note or security for the repayment of any loan made by any society established or acting under the provisions of this Act, nor any receipt or entry in any book of receipt for money lent or paid, nor any debenture or transfer, or draft or order, nor any appointment of any agent, nor any bond nor security, nor other instrument or document whatever, required or authorized to be given, issued, made, or provided in pursuance of the rules of any such society or of this Act shall be subject to or chargeable with any stamp duty whatsoever,

XXVII and XXVIII. (Rate of interest not to exceed 4⅙ per cent. (4*d.* in the pound for 20 weeks), taken in advance ; the principal to be receivable by instalments. Part of the funds by special order of the loan fund board may be issued in small loans at 7½ per cent. (1½*d.* per pound per month).)

XXX. (Similar to section XVI of the English Act of 1840 (*see supra*), but without the provision as to the landlord's rights.)

XXXII. (Distrained goods may be sold by the bailiff free of auction duty).

XXXV. And be it enacted, that it shall and may be lawful for every such society established or acting under this Act, which shall be desirous of raising funds for the purposes of such society or of increasing the funds of such society, to issue debentures in a form and on paper or parchment to be supplied by the said loan fund board, and the debentures issued under former Acts, or which may be issued under this Act, shall be transferable in the manner hereinafter mentioned, and not otherwise; (that is to say,) by endorsement upon the said debenture, to be executed by the person or persons entitled to the sum thereby secured, in the presence of two credible subscribing witnesses at the office of such loan society, and to be registered in the books of the loan society by whom such debenture shall be payable ; and after such endorsement shall have been so executed and registered as aforesaid, but not before, the person or persons to whom such transfer shall be made shall thereupon stand possessed of, and be entitled to, the amount of such debenture, and of all interest, benefit, claims, and demands whatsoever due or to grow due thereon as fully as if he or they had been the party who had originally advanced the sum secured by the said debenture; and every transfer of such debenture shall be in the form number 4, in schedule (A) to this act annexed, or to the like effect; and after the thirty-first day of December after the passing of this Act, no debenture shall be issued for a less sum than twenty pounds, unless it be in lieu of one previously issued.

XXXVI and XXXVII are the same as sections X and XI in the English Act of 1840.

XXXVIII. (The business of a loan society not to be carried on at any hotel, tavern, &c.)

XXXIX. (The books and accounts of all loan, &c., societies to be kept in such manner and form as shall be directed or approved by the loan fund board, and all books, accounts, vouchers, documents, &c., are to be produced, for inspection and examination by the board's inspectors, whenever required; a penalty is prescribed for failure to produce.)

XL. (Abstracts of the accounts, showing assets and liabilities, profit and loss, to be sent by each loan, &c., society annually to the loan fund board.)

XLI. (A loan, &c., society intending to dissolve must give three months' notice of their intention to the loan fund board.)

XLII. It shall not be lawful for any treasurer, trustee, member of the managing committee, or other officer exercising control in the direction or management of the affairs of any loan society, unless upon the special leave of the said loan fund board, voluntarily to resign or withdraw from such office or trust, without having given at least three calendar months' notice in writing of his intention in that behalf to such loan society, and also to the said loan fund board; and that a copy of such notice be posted in a conspicuous part of the office of such loan society.

XLIV. And be it enacted, that it shall and may be lawful for every such loan society as aforesaid, or for such person or persons as shall have been duly authorized in that behalf by the rules of such society, and they are hereby required, annually to reserve a sum, not less than one-tenth of their clear net profits over and above all losses, to form a fund for the security of the debenture holders, and, subject thereto, it shall be lawful for them to appropriate from time to time such portion of the residue thereof as they shall think proper to the support of any dispensary, hospital, or infirmary in the district or county in which such society shall be established, or for such other charitable or useful local purpose as they, with the approbation of the said loan fund board, shall think fit; and as well the said reserved fund, as the residue or the whole of such net profits if no part shall be so appropriated, shall be employed as part of the funds of such society, until such society, with the approbation of the said loan fund board, shall otherwise determine; provided that no part of such net profits as aforesaid shall be appropriated in any way for the advantage or benefit of any member of the society, or of the persons managing or conducting the same,* or for any purpose whatsoever, except as herein-before provided; and provided also, that in case any such society shall have been dissolved, or otherwise deprived of the benefit of this Act, the whole of the clear net profits not previously appropriated, after payment of all debts of or claims on such society, shall be appropriated to such dispensary, hospital, or infirmary, or to such other charitable or useful local purpose as the said loan fund board shall think proper.

XLV. And be it enacted, that in case it shall appear to the said loan fund board, after due investigation, that any such loan society as aforesaid has not adhered to its rules, or has applied any of its profits or funds, or done any matter or thing, contrary to the provisions of this Act, it shall be lawful for the said loan fund board to withdraw from such loan society the certificate † so issued to them as aforesaid, and to order and direct that such society shall discontinue its operations, and shall be dissolved. (The order is to be gazetted and to take effect six months later, when the whole assets of the society shall vest in the loan fund board which shall appoint a receiver for winding up affairs. An appeal against the order lies to the Lord Lieutenant within one month from the date of the original order of the board).

XLVI. (Forms of debentures, &c., to be printed by the loan fund board for distribution to the several societies.

XLVII to LII (Refer to the "Irish Reproductive Loan Fund Institution" (established in London) and the societies affilitated to it in Ireland: these were formed "for the purpose of making

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* This provision is noticeable : *see* section XX *supra*, and compare the similar provisions in the Trustee Savings Banks Act.

† *See* sections XII and XIV *supra*.

charitable * loans of money, or for providing, by way of loan, implements of labour, seeds, or raw materials for manufacture of goods to be used or employed in any trade." These are exempt from the control of the loan fund board, but are granted the privileges of the Act.)

LIII. (Societies not certified under this Act prohibited from using its provisions and privileges.)

LIII. (All "Monts de Piété or charitable, pawn or deposit offices at which money may be lent to the industrious poor upon pledge in Ireland, shall be deemed loan societies within the meaning of this Act" and shall be brought under its rules.)

LV to LVIII. (Provide for the recovery of any penalty by conviction at petty sessions, and through a warrant of distress to be issued by the Justices; "and no justice of the peace who shall be a trustee or other unpaid officer or member of any loan society shall be thereby precluded from adjudicating in the matter of any loan sued for, by or on behalf of, such society, or of any penalty or forfeiture incurred under this Act, or from acting as such justice of the peace in any other proceeding whatsoever under this Act.")

Appendix No. 3.

Form of debenture or security for the payment of the money lent to a loan society.

This is to certify, that *A.B.*, of , has this day deposited with *C.D.*, the treasurer of the loan society, the sum of £ to be repaid out of the funds of the said society to the said *A.B.*, his executors, administrators, or assigns, at the expiration of calendar months after a demand thereof in writing shall have been made upon the treasurer of the said society, and to bear interest until repaid at the rate of per centum per annum, to be paid half-yearly [*or otherwise, as agreed upon*]; and it is hereby declared, that the said principal sum and interest shall be a charge upon and payable out of the funds and property of the said society, and such funds and property only; and that the treasurer and other officers and members of the said society, or any of them, shall not severally or collectively be responsible for the payment thereof from or out of any other funds whatsoever. Dated this of 18 .

(Signed) ——————— Trustee.
——————— Treasurer.
Entered, ——————— Clerk.

No. 4.

Form of transfer of debenture to be endorsed thereon.

I , the within-named depositor [*or* "the assignee of the within debenture"], do hereby transfer this debenture, with all interest due and to accrue due in respect thereof unto of Witness my hand, this day of 18 .

[*Signature of person making the transfer.*]

Executed in the presence of of
and of

N.B.—The transfer is not valid unless it shall have been executed at the office, and registered in the books of the society by which the debenture was issued.

THE BANKING LAWS OF THE STATE OF NEW YORK.

Article V.—Building and Mutual Loan Corporations.

Sec.
170. Incorporation.
171. Powers.
172. Stock for minors.
173. Dividends and monthly payments.
174. Liability of stockholders and directors; exemption.
175. Existing corporations.

Sec. 170. *Incorporation.*—Nine or more persons may become a corporation for the purpose of accumulating a fund for the purchase of real property, the erection of buildings, or the making of other improvements on lands, or to pay off incumbrances thereon, or to aid its members in acquiring real property, making improvements thereon, and removing incumbrances therefrom, and for accumulating a fund to be returned to its members, who do not obtain such advances, when its funds shall amount to a certain sum per share, to be specified in the certificate of incorporation, or for all or any of such purposes; by making, acknowledging and filing a certificate of incorporation, setting forth—

(i) the name of the corporation;
(ii) the location of its principal business office;
(iii) when its regular meetings shall be held and how special meetings may be called;
(iv) what shall be a quorum to transact business at its meetings;
(v) how members shall be admitted and their qualifications;
(vi) what officers, directors or attorneys of the corporation there shall be and how and when chosen;
(vii) the duties of such officers, directors or attorneys and how removed or suspended from office;
(viii) the names of the persons who shall be such officers and directors for its first year, and until others are chosen or appointed in their places;

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* *See* note to preamble to this Act.

(ix) the entrance fee of new members and new shares ;
(x) the amount of each share ;
(xi) the monthly or weekly dues per share ;
(xii) the redemption fee on shares on which advances shall be made ;
(xiii) the fees to be paid on the transfer of shares ;
(xiv) the penalties for non-payment of dues or fees, or other violation of the provisions of the certificate ;
(xv) the manner of redemption of shares by advances made thereon ;
(xvi) the mortgage security to be taken on such advances and how the same may be changed ;
(xvii) the manner of the transfer or withdrawal of shares ;
(xviii) the manner of investing funds not required for advances on shares ;
(xix) the qualification of voters at its meetings and the mode of voting ;
(xx) the ultimate amount to be paid to the owners of unredeemed shares ;
(xxi) the manner of altering or amending the certificate of incorporation ;
(xxii) such other provisions not inconsistent with law as shall be necessary for the convenient and effective transaction of its business ;

Such certificate must be approved by the superintendent of banks and filed in the office of the clerk of the county in which such corporation shall have its principal business office, and a certified copy thereof shall be filed in the office of the superintendent of banks. Thereupon the persons who have subscribed such certificate and such other persons as shall become members of the corporation, and their successors shall be a corporation by the name specified in such certificate.

SEC. 171. *Powers.*—The directors of every such corporation may call in and demand from the members and stockholders thereof, all sums of money by them subscribed, at such times and in such payments or instalments as the certificate of incorporation shall prescribe, under the penalty of forfeiting the shares of stock subscribed for and all previous payments made thereon, if payment shall not be made by the member or stockholder within sixty days after a personal demand made or notice requiring such payment shall have been published for six successive weeks in the newspaper nearest to the principal place of business of the corporation.

Every such corporation shall have power to borrow money for temporary purposes not inconsistent with the objects of its organization, but no such loan shall have a longer duration than two years, nor shall its indebtedness for money so borrowed exceed at any one time one-fourth of the aggregate amount of its shares and parts of shares and the income thereof actually paid in and received.

No loan made by any such corporation to any of its members or stockholders shall exceed in amount the par value of the capital stock for which such member or stockholder may have subscribed.

SEC. 172. *Stock for minors.*—Parents and guardians may take and hold shares in such corporation in behalf and for the use of their minor children or wards, if the cost of such shares be defrayed from the personal earnings of such minor children or wards, or by gifts from persons other than their parents.

SEC. 173. *Dividends and monthly payments.*—Dividend sdeclared from the earnings of the corporation shall be payable in such manner as may be provided in the certificate of incorporation.

No holder of redeemed shares shall claim to be exempt from making the monthly or other stated payments provided in the certificate of incorporation on the ground that by reason of losses or otherwise, the corporation has continued longer than was originally anticipated, whereby the payments made on such shares may amount to more than the amount originally advanced, with legal interest thereon : nor shall the imposition of fines for non-payment of dues or fees or other violation of the certificate of incorporation, nor the making of any monthly payment required by the certificate of incorporation, or of any premiums for loans made to members be deemed a violation of the provisions of any statute against usury.

SEC. 174. *Liability of stockholders and directors ; exemption.*—All the shareholders of any such corporation shall be individually liable to the creditors to an amount equal to the amount of stock held by them respectively for all debts contracted by it. The directors or other officers of every such corporation shall be personally liable for any fraudulent use, disposition or investment of any moneys or property belonging to it, or for any loss which shall be incurred by any investment made by any such directors or officers, other than such as are mentioned in and authorized by this article; but no director or other officer shall be so liable unless he authorized, sanctioned, approved of or made such fraudulent use, disposition or investment.

The shares held by the members and stockholders of every such corporation shall be exempt from sale on execution for debt to an extent not exceeding six hundred dollars in such shares at their par value.

SEC. 175. *Existing corporations.*—Any existing corporation formed solely for the purposes mentioned in this article, or any of them, may, by a vote of the persons holding a majority of the voting shares of stock of such corporation at any regular meeting after this article shall take effect, become entitled to the benefit of this article on complying with section 170 of this chapter, or such portions thereof as have not been previously complied with.

ARTICLE VI.—CO-OPERATIVE LOAN ASSOCIATIONS.

SEC.
180. Incorporation.
181. Officers and by-laws.
182. Capital stock ; voting.
183. Dues, fines and entrance fees.
184. Withdrawal of shares.
185. Payment of matured shares.

SEC.
186. Borrowing by members.
187. Security ; rights of borrower.
188. Forfeiture for non-payment of dues.
189. Purchase of real property ; loans.
190. Profits and losses.
191. Qualification of members ; transfer and exemption of shares.

SEC. 180. *Incorporation.*—Fifteen or more persons may become a corporation for the purpose of encouraging industry, frugality, home building and savings among its members, the accumulation of

savings, the loaning of such savings to its members, and the repayment to each member of his savings when they have accumulated to a certain sum, or at any time when he shall desire the same, or the corporation shall desire to repay the same, or for any or all of such purposes, by making, acknowledging and filing a certificate stating the name of the corporation, which shall contain as a part thereof the words "co-operative savings and loan association," the purpose or purposes for which it is formed, the town, city or village where its principal place of business is located within this State and the minimum number of shares of stock it shall have outstanding at any one time.

Such certificate must be approved by the superintendent of banks and filed and recorded in his office, and a certified copy thereof filed in the office of the clerk of the county where its principal business office is to be located, and upon the filing of such certificate and the certified copy thereof, the persons named therein, their associates and successors, shall become and be a corporation by the name specified therein.

Sec. 181. *Officers and by-laws.*—The officers of the corporation shall be a president, vice-president, treasurer and secretary, who shall be ex-officio members, of the board of directors, which shall consist of nine members exclusive of such ex-officio members, and such other officers as may be authorized by the by-laws. By-laws shall be adopted prescribing the terms of office, duties and compensation of the officers, the time of their election and of periodical meetings of the officers and shareholders, how special meetings may be called, regulating the due conduct of the business of the corporation, defining the duties of its officers and committees, the mode of determining and declaring the withdrawing value of shares, and making such other regulations in regard to the transaction of the business of the corporation as are not inconsistent with law. The board of directors shall each year determine the compensation of the treasurer and secretary, and they may appoint and remove at pleasure an attorney for the corporation.

Sec. 182. *Capital stock; voting.*—The capital of every such corporation shall consist of the accumulated savings of its members, which it holds, and shall not exceed at any time one million dollars; and shall be divided into shares of the matured value of two hundred dollars each.

The total number of shares outstanding at any time shall not exceed ten thousand. The shares shall be issued in yearly or half-yearly series in such amounts in each series and at such times as shall be prescribed by the by-laws. No shares of a prior series shall be issued after the issuing of shares in a new series. Shares which have not been pledged as a collateral security for the repayment of a loan shall be called unpledged shares.. Shares which have been so pledged shall be called pledged shares. No person shall hold more than ten unpledged or twenty pledged shares in any one series. Each shareholder shall be entitled to one vote at all meetings of the shareholders for each share owned by him or held by him as trustee, not in arrears for dues.

Sec. 183. *Dues, fines and entrance fees.*—Savings paid to the corporation upon shares shall be called dues. At or before each stated monthly or semi-monthly meeting of the board of directors, each shareholder shall pay to the board or a committee thereof, one dollar dues upon each share of stock held by him until the share reaches the value of two hundred dollars, or is withdrawn, cancelled or forfeited. Payment of dues on shares of each series shall commence from its issue. Fines may be imposed and collected, not exceeding 10 per cent. for each month in arrears, for every dollar of dues or interest which a shareholder shall refuse or neglect to pay at the time it is due. An entrance fee may also be charged not exceeding twenty-five cents on every share of stock issued by the corporation.

Sec. 184. *Withdrawal of shares.*—The accumulations upon unpledged shares may be withdrawn, and the shares cancelled, after one month's written notice of such intention filed with the secretary at or before a stated monthly meeting of the board. If filed before such meeting, the one month's notice shall not be deemed to have commenced until the first regular meeting after filing. The withdrawing shareholder shall be paid the amount of the withdrawal value of his accumulations as determined under the by-laws at the last distribution of profits before the notice of withdrawal, together with all dues paid since such distribution, and such interest on the value of the shares at the time of the last distribution and on the dues thereafter paid as the by-laws shall determine, less any fines unpaid and a proportionate share of any unadjusted loss; but not more than one-half of the receipts of the corporation, and when the corporation is indebted on matured shares, not more than one-third of such receipts, shall be applicable to the payment of withdrawing shareholders without the consent of the board of directors. When the demands of withdrawing shareholders exceed the moneys applicable to their payment, they shall be paid in the order in which their notices of withdrawal were filed with the secretary. The board of directors may in their discretion, under rules made by them, retire the unpledged shares of any series at any time after four years from the date of their issue by enforcing withdrawals of the same; but the shareholders whose shares are to be retired shall be determined by lot, and they shall be paid the full value of their shares, less all fines and proportionate part of any unadjusted loss.

Sec. 185. *Payment of matured shares.*—When each unpledged share of a given series reaches the value of two hundred dollars, all payment of dues thereon shall cease, and the holder thereof shall be paid out of the funds of the corporation, two hundred dollars therefor, with such rate of interest as shall be determined by the by-laws from the time the board of directors shall have declared such shares to be matured until paid; but at no time shall more than one-third of the receipts of the corporation be applicable to the payment of matured shares without the consent of the board of directors. The order of the payment of matured shares shall be determined by the board of directors.

Sec. 186. *Borrowing by members.*—At each monthly stated meeting, immediately following the receipt of dues and interest, the board of directors shall offer to members of the corporation desiring to borrow, all accumulations applicable to that purpose, in sums of two hundred dollars, the value of a matured share, or a multiple thereof, or the fractional parts of one-fourth or one-half thereof. If more than one member desires to borrow, the right to the loan shall be determined by an open bidding of a premium per share, and the member bidding the highest premium shall be entitled to the loan upon giving proper security; and the amount of the premium paid shall be deducted from the sum loaned at the time of loaning, and the receipt thereof shall not be deemed a violation of the usury laws. No

member can borrow a larger sum than shall be equal to the matured value of the shares held by him. A borrowing member, for each share or fractional part thereof borrowed upon, shall, in addition to the dues on his shares, pay monthly interest on his loan at the rate of six per cent. per annum, or such lower rate as the by-laws shall name, until the shares borrowed upon reach the matured value of two hundred dollars each, or the loan is repaid; and when such matured value is reached, the loan upon it shall be paid out of the share, and the proper surrender and acquittances be made.

SEC. 187. *Security; rights of borrower.*—Every loan made shall be secured by a bond and a first mortgage upon unincumbered real property, with a transfer and pledge to the corporation of the shares borrowed upon, and all accumulations that have or shall accrue thereon; but in lieu of the mortgage the borrower, or another, may transfer and pledge to the corporation for the payment of the loan, unpledged shares, the withdrawal value of which, under the by-laws, at the time of such borrowing, shall exceed the amount borrowed and interest thereon for six months. The right to the loan shall be forfeited if the borrower neglects to offer security satisfactory to the board of directors within the time provided by the by-laws, and he shall be charged with one month's interest and all necessary expenses incurred, if any, under the by-laws, in reference to his proposed loan. All bonds and mortgages given to the corporation shall be deemed conditioned upon the performance of the provisions of this chapter relating to the repayment of loans and interest thereon, and the by-laws of the corporation, although not fully expressed therein. A borrower may repay the loan and all arrears of interest and fines thereon, or one share thereof, at any stated monthly meeting, or at any other time, but when not made at a stated meeting he shall pay interest up to the first monthly meeting after such payment. He may repay his loan in full and release the shares from liability upon the pledge thereof, or he may, by a proper notice and direction as to the application, have the withdrawal value of the shares borrowed upon applied in payment or part payment of his loan.

SEC. 188. *Forfeiture for non-payment of dues.*—When any member shall be six months in arrears in the payment of dues upon unpledged shares, the secretary shall give him notice thereof in writing, and a statement of his arrearages by mailing the same to him at the last post-office address given by him to the corporation, and if he shall not pay the same on or before the second stated monthly meeting thereafter, the board of directors may, at their discretion, declare his shares forfeited; and at the time of such forfeiture, the withdrawal value thereof shall be determined aud stated, and the defaulting member shall be entitled to withdraw the same without interest within one year, upon such notice as shall be required of a withdrawing shareholder. If a borrowing member shall be six months in arrears in the payment of his dues and interest, or either, the whole loan shall become due at the option of the board of directors, and they may proceed to enforce the collection upon the securities held by the corporation. The withdrawal value at the time of the commencement of the action of all shares pledged as collateral security for the loan shall be applied upon the loan and arrearages of interest and fines thereon, and the shares deemed surrendered to the corporation.

SEC. 189. *Purchase of real property; loans.*—Any such corporation may purchase at any sale, public or private, any real property upon which it may have a mortgage, judgment, lien or any other incumbrance, or in which it may have any interest, and may sell, convey, lease or mortgage the same at pleasure to any person or persons. It may also borrow money, but not for a longer period than one year, for the purpose of making loans or paying withdrawals, not exceeding two thousand dollars, when its accumulated capital is less than ten thousand dollars; and not exceeding six thousand dollars when its accumulated capital shall be ten thousand dollars and over, and not more than sixty thousand dollars; and if its accumulated capital exceeds sixty thousand dollars, it may borrow money for such purposes not exceeding ten per cent. of its accumulated capital.

If any such corporation has a surplus in its treasury for which there is no demand for loans, withdrawing shareholders or matured stock, it may loan the same to any other corporation organized under the provisions of this article, subject to the provisions of this section on the part of the borrowing corporation. No corporation shall borrow or make loans authorized by this section except by a two-thirds vote of its board of directors, which shall be recorded by ayes and nays in its regular minutes.

SEC. 190. *Profits and losses.*—Profits and losses shall be distributed at least annually and always before issuing a new series of stock to all shares in all series outstanding at the time of such distribution, in proportion to their holding value as distinguished from their withdrawing value, except that, in addition thereto, a distribution of not exceeding the amount of the entrance fee, in the discretion of the board of directors, may be made to each share outstanding in the last series issued prior to the distribution. At each periodical distribution of profits, the board of directors may reserve and carry as undistributed profits, in the nature of a guaranty fund, any sum from the net profits that in their discretion seems wise, to be applied upon any future losses that may occur from any cause whatever.

SEC. 191. *Qualification of members; transfer and exemption of shares.*—Any person of full age and sound mind may become a member of the corporation by taking one or more shares therein and subscribing the by-laws, and annexing to his signature his post-office address; and when he desires his post-office address changed, he shall give written notice thereof to the secretary of the corporation; and for the purpose of giving any member notice by mail, the last post-office address given by him shall be deemed the proper one. A minor may hold shares in the name of a parent, guardian or next friend as trustee for him. No transfer of shares shall be binding upon the corporation until the same has been made upon its books; and the transferee thereof shall take the same charged with all the liabilities and conditions attaching thereto in the hands of the person transferring the same; and the corporation may require a transfer fee not exceeding twenty-five cents per share.

All accumulations upon shares held by any person shall be exempt from execution and proceedings supplementary thereto to the amount of six hundred dollars; and the corporation shall be deemed an institution for savings and not taxable under any corporation tax law, which shall exempt savings banks or institutions for savings from taxation; and no such corporation shall be liable to pay any tax upon its organization or as a condition thereof.

BANKING LAWS OF MASSACHUSETTS.

The following is the law of this State, as reported by the Commissioners of Savings Banks December 31, 1887 :—

Sec. 1. Twenty-five or more persons who associate themselves together by an agreement in writing, with the intention of forming a corporation for the purpose of accumulating the savings of its members paid into such corporation in fixed periodical instalments, and lending to its members the funds so accumulated, shall be and remain a corporation upon complying with the provisions of the three following sections.

Sec. 2. The agreement shall set forth the fact that the subscribers thereto associated themselves with the intention of forming a corporation; the name by which the corporation shall be known; the purpose for which it is formed; the town or city, which shall be within this Commonwealth, in which it is located; and the limit of the capital to be accumulated.

Sec. 3. The name shall be one not previously in use by any existing corporation established under the laws of this Commonwealth, and shall be changed only by Act of the General Court. The words "co-operative savings fund and loan association" shall form a part of the name.

Section three of chapter one hundred and seventeen of the Public Statutes, relative to the name of co-operative savings fund and loan associations, is hereby amended by striking out the words "co-operative savings fund and loan associations," in the fourth line, and inserting in place thereof the words "co-operative bank."

The title of said chapter one hundred and seventeen of the Public Statutes is hereby amended by striking out the words "savings-fund and loan associations," and inserting in place thereof the word 'banks.'

The names of all co-operative savings-fund and loan associations heretofore organized are hereby changed by striking out in each the words "savings-fund and loan association," and inserting in place thereof the word 'bank' ; and they shall hereafter be known as 'co-operative banks.'

The first and second sections of this Act shall take effect upon its passage, and the third section upon the first day of July, in the year eighteen hundred and eighty-three.

Sec. 4. The provisions of sections eighteen, twenty, and twenty-one of chapter one hundred and six shall apply to such corporations, except that, in the certificate signed by the Secretary of the Common wealth, the limit of capital to be accumulated, as fixed in the agreement of association, shall be inserted, instead of the amount of the capital, that the certificate required by said section twenty-one to be filed and recorded may be signed and sworn to by the presiding and financial officers, and a majority at least of the officers possessing the powers of directors by whatever name they may be called, and that the fees to be paid for filing and recording the certificates required by said section twenty-one, including the issuing of the certificate of organization, shall be five dollars.

Sec. 5. The capital to be accumulated shall not exceed one million dollars, and shall be divided into shares of the ultimate value of two hundred dollars each. The limitation of capital to be accumulated in any co-operative bank now organized or hereafter formed under the provisions of chapter one hundred and seventeen of the Public Statutes shall be held to apply to capital actually paid in, and no such bank shall be restrained from issuing shares so long as the capital actually paid in on shares is not in excess of one million dollars. The shares may be issued in quarterly, half-yearly, or yearly series, in such amounts and at such times as the members may determine. No person shall hold more than twenty-five shares in the capital of any one such corporation. No shares of a prior series shall be issued after the issue of a new series.

Sec. 6. The number, title, duties, and compensation of the officers of the corporation, their terms of office, the time of their election, as well as the qualifications of electors and the time of each periodical meeting of the officers and members, shall be determined by the by-laws; but no member shall be entitled to more than one vote at any election. All officers shall continue in office until their successors are duly elected, and no corporation shall expire from neglect on its part to elect officers at the time prescribed by the by-laws.

In any co-operative bank now or hereafter formed under the provisions of chapter one hundred and seventeen of the Public Statutes, the offices of secretary and treasurer may be held by one and the same person.

Sec. 7. The officers shall hold stated monthly meetings. At or before each of these meetings every member shall pay to the corporation, as a contribution to its capital, one dollar as dues upon each share held by him until the share reaches the ultimate value of two hundred dollars or is withdrawn, cancelled or forfeited. Payment of dues on each series shall commence from its issue.

Sec. 8. A member may withdraw his unpledged shares at any time by giving thirty days' notice of his intention so to do, written in a book held and provided by the corporation for that purpose. Upon such withdrawal the shareholder's account shall be settled as follows:—from the amount then standing to the credit of the shares to be withdrawn there shall be deducted all fines, a proportionate part of any unadjusted loss, together with such proportion of the profits previously credited to the shares as the by-laws may provide, and such shareholders shall be paid the balance: *Provided*, that at no time shall more than one-half of the funds in the treasury be applicable to the demands of withdrawing members without the consent of the directors. The directors may at their discretion, under rules made by them, retire the unpledged shares of any series at any time after four years from the date of their issue by enforcing the withdrawal of the same; but whenever there shall remain in any series, at the expiration of five years after the date of its issue, an excess above one hundred unpledged shares, then it shall be the duty of the directors to retire annually twenty-five per centum of such excess existing at said expiration of five years after the date of its issue, so that not more than one hundred unpledged shares shall remain in such series at the expiration of nine years from the date of its issue, and thereafter the directors may in their discretion retire such other unpledged shares as they consider the best interests of the bank to require: *Provided*, that whenever under the provisions of this section the withdrawal of shares is to be enforced the shares to be retired shall be determined by lot, and the

holders thereof shall be paid the full value of their shares, less all fines and a proportionate part of any unadjusted loss: *Provided, also*, that share pledged for share loans shall be treated as unpledged shares.

Shares may be issued in the name of a minor, and if so issued may, at the discretion of the directors, be withdrawn, in manner as provided in section two of this Act, by such minor, the parent or guardian of such minor, and in either case the payments made on such withdrawals of shares shall be valid. When a share or shares are held by any one in trust for another, the name and residence of the person for whom such share or shares are held shall be disclosed, and the account shall be kept in the name of such holder as trustee for such person; and, if no other notice of the existence and terms of such trust has been given in writing to the corporation, in the event of the death of the trustee, such shares may be withdrawn by the person for whom such deposit was made or by his legal representatives.

Sec. 9. When each unpledged share of a given series reaches the value of two hundred dollars, all payments of dues thereon shall cease, and the holder thereof shall be paid out of the funds of the corporation two hundred dollars thereof with interest at the rate of six per cent. a year from the time of such maturity to the time of such payment: *Provided*, that at no time shall more than one-half of the funds in the treasury be applicable to the payment of such matured shares without the consent of the directors: *Provided, further*, that when any series of shares, either pledged or unpledged, reaches maturity between the dates of adjustment of profits or whenever shares are retired between such dates, the holders of such shares shall, in addition to the value thereof, be entitled to interest at the rate of six per cent. per annum for all full months from the date of the preceding adjustment.

Chapter one hundred and seventeen of the Public Statutes is amended as follows by adding to section nine the following words:—"And that before paying matured shares all arrears and fines shall be deducted."

Sec. 10. The moneys accumulated, after due allowance made for all necessary and proper expenses and for the withdrawal of shares, shall at each stated monthly meeting be offered to the members according to the premiums bid by them for priority of right to a loan. Every member whose bid is accepted shall be entitled, upon giving proper security, to receive a loan of two hundred dollars for each share held by him or such fractional part of two hundred dollars as the by-laws may allow. If a balance of money remains unsold after a monthly sale, the directors may invest the same in any of the securities named in the second clause of section twenty of chapter one hundred and sixteen.

Sec. 11. Premiums for loan shall consist of a percentage charged on the amount lent in addition to interest, and shall be deemed to be a consideration paid by the borrower for the present use and possession of the future or ultimate value of his shares, and shall, together with interest and fines, be received by the corporation as a profit on the capital invested in the loan, and shall be distributed to the various shares and series of said capital as hereinafter provided.

Sec. 12. A borrowing member, for each share borrowed upon, shall, in addition to his dues and monthly premium, pay monthly interest on his loan at the rate of six per cent. per annum until his shares reach the ultimate value of two hundred dollars each, or the loan has been repaid; and when said ultimate value is reached, said shares and loan shall be declared cancelled and satisfied, and the balance, if any, due upon the shares shall be paid to the member.

Any corporation organized under said chapter one hundred and seventeen may provide in its by-laws that the bid for loans at its stated monthly meeting shall, instead of a premium, be a rate of annual interest upon the sum desired, payable in monthly instalments. Such bids shall include the whole interest to be paid, and may be at any rate not less than five per centum per annum.

Sec. 13. For every loan made, a note secured by first mortgage of real estate shall be given, accompanied by a transfer and pledge of the shares of the borrower. The shares so pledged shall be held by the corporation as collateral security for the performance of the conditions of said note and mortgage. Said note and mortgage shall recite the number of shares pledged and the amount of money advanced thereon, and shall be conditioned for the payment, at the stated meetings of the corporation, of the monthly dues on said shares, and the interest and premium on the loan, together with all fines on payments in arrears until said shares reach the ultimate value of two hundred dollars each, or said loan is otherwise cancelled and discharged: *Provided*, that the shares, without other security, may, in the discretion of the directors, be pledged as security for loans, to an amount not exceeding their value as adjusted at the last adjustment and valuation of shares before the time of the loan.

If the borrower neglects to offer security satisfactory to the directors within the time prescribed by the by-laws, his right to the loan shall be forfeited, and he shall be charged with one month's interest and one month's premium at the rate bid by him, together with all expenses, if any, incurred; and the money appropriated for such loan may be reloaned at the next or any subsequent meeting.

Sec. 14. A borrower may repay a loan at any time, upon application to the corporation, whereupon, on settlement of his account, he shall be charged with the full amount of the original loan, together with all monthly instalments of interest, premium and fines in arrears, and shall be given credit for the withdrawing value of his shares pledged and transferred as security; and the balance shall be received by the corporation in full satisfaction and discharge of said loan: *Provided*, that all settlements made at periods intervening between stated meetings of the directors shall be made as of the date of the stated meeting next succeeding such settlement; and, *Provided*, that a borrower desiring to retain his shares and membership may at his option repay his loan without claiming credit for said shares, whereupon said shares shall be retransferred to him, and shall be free from any claim by reason of said cancelled loan. Partial payment of loans on real estate made by any co-operative bank may be received in sums of fifty dollars or any multiple thereof; and for each two hundred dollars so repaid one share of stock shall be released from pledge.

Sec. 15. Members who make default in the payment of their monthly dues, interest, and premiums, shall be charged a fine not exceeding 2 per cent. a month on each dollar in arrears. No fines shall be charged after the expiration of six months from the first lapse in any such payment, nor upon a fine in arrears. The shares of a member who continues in arrears more than six months shall, at the option of the directors, if the member fails to pay the arrears within thirty days after notice, be declared forfeited, and the withdrawing value of the shares at the time of the first default shall be

ascertained, and, after deducting all fines and other legal charges, the balance remaining shall be transferred to an account to be designated the 'Forfeited Share Account,' to the credit of the defaulting member. Said member, if not a borrower, shall be entitled, upon thirty days' notice, to receive the balance so transferred without interest from the time of the transfer, in the order of his turn, out of the funds appropriated to the payment of withdrawals. All shares so forfeited or transferred shall cease to participate in any profits of the corporation accruing after the last adjustment and valuation of said shares before said first default.

Sec. 16. If a borrowing member is in arrears for dues, interest, premium or fines, for more than six months, the directors may, at their discretion, declare the shares forfeited, after one month's notice, if the arrears continue unpaid. The account of such borrowing member shall then be debited with the arrears of interest 'premium,' and fines of date of forfeiture, and the shares shall be credited upon the loan at their withdrawing value. The balance of the account may, and after six months shall, be enforced against the security, and be recovered as secured debts are recovered at law.

Sec. 17. The general accounts of every such corporation shall be kept by double entry. All moneys received by the corporation from each member shall be receipted for by persons designated by the directors, in a pass-book provided for by the corporation for the use of, and to be held by, the member; and said pass-book shall be plainly marked with the name and residence of the holder thereof, the number of shares held by him, and the number or designation of the series or issue to which said shares respectively belong, and the date of the issue of such series. All moneys so received shall be originally entered by the proper officer in a book to be called the 'cash-book,' to be provided by the corporation for the purpose, and the entries therein shall be so made as to show the name of the payer, the number of shares, the number or designation of the series or issue of the particular share or shares so entered, together with the amount of dues, interest, premiums, and fines paid thereon, as the case may be. Each payment shall be classified and entered into a column devoted to its kind. Said cash-book shall be closed after the termination of each stated meeting, and shall be an exhibit of the receipts of all moneys paid at said meeting. All payments made by the corporation for any purpose whatsoever shall be by order, check, or draft upon the treasurer, signed by the president and secretary, and endorsed by the persons in whose favour the same are drawn. The name of the payee, the amount paid, and the purpose, object, or thing for which the payment is made, together with its date, shall be entered on the margin of said order, check, or draft. The treasurer shall dispose of and secure the safe keeping of all moneys, securities, and property of the corporation, in the manner designated by the by-laws, and the treasurer and secretary shall give such security for the faithful performance of their respective duties as the by-laws may direct.

Sec. 18. The profits and losses may be distributed annually, semi-annually, or quarterly, to the shares then existing, but shall be distributed at least once in each year, and whenever a new series of shares is to be issued. Profits and losses shall be distributed to the various shares existing at the time of such distribution, in proportion to their value at that time, and shall be computed upon the basis of a single share fully paid to the date of distribution. Losses shall be apportioned immediately after their occurrence.

At each periodical distribution of profits the directors shall reserve as a guarantee fund a sum not less than one nor more than five per cent. of the net profits accruing since the next preceding adjustment, until such fund amounts to five per cent. of the dues capital, which fund shall thereafter be maintained and held; and said fund shall be at all times available to meet losses in the business of the corporation from depreciation of its securities or otherwise.

Sec. 19. Any such corporation may purchase at any sale, public or private, any real estate upon which it may have a mortgage, judgment, lien, or other incumbrance, or in which it may have an interest; and may sell, lease, convey, or mortgage, at pleasure, the real estate so purchased to any person or persons whatsoever. All real estate so acquired shall be sold within five years from the acquisition of the title thereto.

Sec. 20. The commissioners of savings banks shall perform in reference to every such corporation, the same duties, and shall have the same powers, as are required of or given to them in reference to savings banks, and shall annually make a report to the General Court of such facts and statements respecting such associations, and in such forms they deem that the public interest requires. Every officer of such corporation shall answer truly all inquiries made, and shall make all returns required by the commissioners.

An Act relatino to Co-operative Banks, 1889.

Every co-operative bank shall annually, within twenty days after the last business day of October, make a return to the commissioners of savings banks in such form as may be prescribed by them, showing accurately the condition thereof at close of business on said day, which return shall be signed and sworn to by the secretary and treasurer of such corporation. The president and five or more of the directors shall certify and make oath that the report is correct according to their best knowledge and belief.

LABOUR LAWS OF THE STATE OF NEW JERSEY.

Co-operation.

An Act to provide for the formation and regulation of Co-operative Societies of working-men.

1. That it shall be lawful for any number of persons, not less than seven, residents in this State, to associate themselves into a society for the purpose of carrying on any lawful mechanical, mining, manufacturing or trading business, or for the purpose of trading and dealing in goods, wares and

merchandise or chattels, or for the purpose of buying, selling, settling, owning, leasing and improving real estate and erecting buildings thereon, within this State, upon making and filing a certificate of association, in writing, in manner hereinafter mentioned, and as such shall be deemed to be a corporation, and to possess all powers incident thereto.

2. That such certificate of association shall set forth—
   (i) the name assumed to designate such society and to be used in its business and dealings, which name shall have the word 'co-operative' as a distinguishing part thereof, but shall in no respect be similar to that of any other society organized under this Act;
   (ii) the place or places in this State where the business of such society is to be conducted, and the location of the principal office of the same;
   (iii) the objects for which the society shall be formed;
   (iv) the total amount of capital stock of such society, the number of shares into which the same is divided, the par value of each share, the manner in which the instalments on the shares shall be paid, the number of shares subscribed, and the amount actually paid in cash on account of the same;
   (v) the terms of the admission of members;
   (vi) mode of application of profits;
   (vii) the mode of altering or amending the certificate of association and the by-laws of the society.

3. That the said certificate of association shall be signed by the persons originally associating themselves together, and shall be proved or acknowledged by at least seven of them before an officer qualified to make acknowledgments of deeds of real estate, and after being approved by the chief of the bureau of statistics of labour and industries, shall be recorded in the office of the clerk of the county where the principal office or place of business of such society shall be established, and a copy of such certificate shall be filed in the office of the chief of the bureau of statistics of labour and industries.

4. That the business of every such society shall be managed and conducted by a board of not less than five directors, who shall respectively be members of said society and shall be annually elected at such time and place as shall be provided in the by-laws of the society, and one of such directors shall be chosen president and one of them shall be chosen treasurer, and such directors and officers shall hold their respective offices until their successors are duly qualified; and that such society shall also have a secretary and such other officers, agents and factors as may be necessary to carry on its business, and shall choose them in the manner prescribed by the by-laws thereof.

5. That the first meeting of such society shall be called by a notice signed by a majority of the persons named in the certificate of association, and designating the time, place and purpose of the meeting, and shall be personally served on all the persons signing said certificate, or by advertisement in a newspaper published in the county where such society shall have been incorporated, if such personal service cannot be made; and at such meeting so called, or at any adjourned meeting thereof, a majority of the persons so signing shall constitute a quorum for the transaction of business, and shall have power to elect the directors and other officers provided for in section fourth (4) of this Act, who shall serve until their successors duly qualify, and to adopt by-laws, rules and regulations for the government of such society.

6. That the by-laws of such society shall provide—
   (i) for an annual meeting of the members thereof, and such other regular and special meetings as may be deemed desirable, the number of members necessary to constitute a quorum for the transaction of business, and the right of voting at the same;
   (ii) for the election of directors and other officers, agents and factors, and their respective powers and duties;
   (iii) for the limitation of the amount of such real and personal estate as the purposes of the society shall require;
   (iv) whether the shares, or any number of them, shall be transferable, and in case it be determined that the same shall be transferable, provisions for their transfer and registration, and the consent of the board of directors to the same; and in case it shall be determined that the shares shall not be transferable, provision for paying to members the balance due to them on withdrawal, or of paying nominees in cases hereinafter mentioned;
   (v) how members may withdraw from the society;
   (vi) whether and by what authority any part of the capital may be invested in or on security of another society through which its products are disposed of or its supplies secured;
   (vii) whether and to what extent credit in its business transactions may be given or taken;
   (viii) in what sum and with what sureties the treasurer and other fiduciary officers or agents shall give bonds for the faithful performance of their respective duties;
   (ix) for the audit of accounts;
   (x) for the distribution of the net profits;
   (xi) for the custody, use and device of the seal, which shall bear the incorporated name of the society.

7. That every society incorporated under this Act shall paint or affix, and shall keep painted or affixed, its name on the outside of every office or place in which the business of the association is carried on, in a conspicuous position in letters easily legible.

8. That every society incorporated under this Act shall have a registered office to which all communications and notices may be addressed, and notices in writing of the location of such office, and of any change therein, shall be filed with the chief of the bureau of statistics of labour and industries, and in the office of the clerk of the county where the office of such society is located.

9. That the capital stock of such society shall be divided into shares, the par value of which shall not be more than fifty (50) dollars, and no share shall be issued for less than its par value; and that no certificate of shares shall be issued to any member until the shares are fully paid up.

10. That no member of such society shall be entitled to more than one vote upon any subject, which must be cast in person; and that the board of directors shall have power, unless otherwise provided in the bye-laws of the society, to fix and regulate the number of shares to be held by any one member.

11. That any society incorporated under this Act may hold in its corporate name any amount of interest in any other society through which its products are disposed of or its supplies secured; *Provided*, that such interest so held shall not exceed one-third in value of the paid-up capital of the society holding said interest.

12. That the board of directors of every society incorporated under this Act shall annually make a statement in writing of the condition of such society, setting forth the amount of capital stock, the number of shares issued and the par value thereof, the number of stockholders and number of shares held by each, the amount and character of the property of the society and of its debts and liabilities; and said statement shall be signed and sworn to by a majority of directors, including the treasurer, and filed in the office of the clerk of the county where the principal office of such society is located, and that immediately thereafter a copy of such statement shall be forwarded to the chief of the bureau of statistics of labour and industries who, if he shall have reason to doubt the correctness of such statement or upon the written request of five members of such society, shall cause an examination of the books and affairs of such society to be made and render a correct statement to the members thereof; and every member or creditor thereof shall be entitled to receive from the secretary a copy of such annual statement; and every director or other officer refusing to comply with the requirements of this section, or making and signing a false annual statement of the condition of the society, shall forfeit for each offence the sum of one hundred dollars, to be recovered in an action of debt in any court of competent jurisdiction in this State by any member or creditor of the society who shall sue for the same.

13. That any member or other person having an interest in the fund of any such society may inspect the books thereof, at all reasonable hours, at the office thereof.

14. That there shall be such distribution of the profits of such society, among the workmen, purchasers and members, as shall be prescribed in the certificate of association, at such times as therein prescribed, as often at least as once in twelve months; *Provided*, that no such distribution shall be made until a sum equal to five per centum of the net profits shall have been appropriated for a contingent or sinking fund, and that such appropriation shall continue to be made until there shall be accumulated a sum equal to thirty per centum of the capital stock of such society.

15. That any member of such society, by writing under his hand, delivered at the office of the society, may nominate any person, being the husband, wife, father, mother, child, brother, sister, nephew or niece, or other relative of such member, to whom his or her share of the capital stock of the society shall be transferred at his or her decease, and from time to time may revoke or vary such nomination, by a writing similarly delivered; and such society shall keep a book, wherein the names of all persons so nominated and the number of shares to be transferred shall be recorded; *Provided, nevertheless*, that in lieu of making such transfer, the society may provide for payment to all such nominees of the full value of shares intended to be transferred; *Provided, also*, that if by the bye-laws of the society the shares are transferable, this section shall not be construed to forbid the transfer of such shares by sale or will, or otherwise, subject to the consent of the board of directors.

16. That any such society may be dissolved in the manner in which any other corporation may be dissolved under existing laws.

17. That where the whole capital of such society shall not have been paid in, and the assets of such society shall be insufficient for the payment of its debts, liabilities and obligations, each stockholder shall be bound to pay, on each share held by him, the sum necessary to complete the amount of such share, as fixed in the certificate of association, or such proportion as shall be required to satisfy such debts, liabilities and obligations; *Provided, however*, that no such contribution shall be required from any person after the expiration of one year from the time he has ceased to be a member, or for any debt, liability or obligation contracted after he has ceased to be a member of such society.

Approved March 19th 1894.

LAW RELATING TO MONTI FRUMENTARII * (ITALY).

LAW OF 17TH JULY 1890 (OPERE PIE).

* * * * *

3. In every commune is established a charity committee with the powers granted by the present law.

4. Institutions of public beneficence are under the management of the charity committee, or of such bodies, councils, boards, or other governing agencies as are specially charged therewith by their deeds or statutes of foundation.

5. The committee shall consist of a president with four members where the village has less than 5,000 inhabitants, with eight members when the population is from 5,000 to 50,000, and with twelve in other cases.

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* *See* Vol. I, pp. 195–96. These institutions are ancient charitable institutions and are still classed as 'opere pie.' But these operations, though charitable, are on a business footing, and may thus be compared in character with those of the Irish Loan Societies under the Act of 1843. Their present object is the supply of grain for seed and maintenance during the cultivation season, and cash for the purchase of cattle and implements.

They are regulated by the law relating to 'opere pie' (17th July 1890), of which, however, only such sections will be extracted as will display the general management and supervision of the various 'opere pie' in Italy. The special law, however, does not contain the whole law on the subject, for the communal and provincial laws require the local authorities to watch the management of such institutions.

6. The president and members are elected by the communal council * in the autumn session : not more than half of the members must belong at the same time to the communal council.

The president remains in office for four years ; one-fourth of the members retire each year.

* * * * *

18. The managing bodies of public charitable institutions shall maintain an exact inventory of all movables and immovables, rights, dues, charges and obligations with their respective documents.

19. A statement taken from the above with all subsequent additions and alterations shall be sent to the mayor of the commune, and to the Provincial (District) Administrative committee.†

20. The managing bodies must annually draw up a budget, a statement of expenditure and a repor on the work done.

21. When the treasurer (of a society) has not presented his account within one month (from due date) the district administrative committee shall proceed to draw it up at his expense.

The managing bodies must proceed to consider the account within two months of its receipt: in case of failure the district administrative committee shall examine it, and must, in that case, dispose of the matter within three months.

22. (Each charity committee may have its special collector or collectors or it may use the village tax collector.)

23. (Any surplus funds are to be deposited in the Postal Savings bank or other approved bank. The rules of the Postal Savings banks as regards the amount of deposits either annual or aggregate, do not apply.)

24. The income of public charitable institutions shall be collected according to the rules for the collection of communal dues.

* * * * *

29. When by the non-observance of the methods prescribed by the law, by the statutes, or by the rules for the preservation of the funds of an institution, the managers have negligently and culpably, even though not criminally, caused loss to the institution, the district committee may of its own motion or on demand by the prefect, proceed administratively to ascertain the loss, and the persons responsible.

Such enquiry shall not prejudice the cause of the parties, but shall serve as a basis for action before the judicial authorities.

GUARDIANSHIP.

35. Public charitable institutions are placed under the guardianship (tutela) of the district administrative committees. ‡

36. The following matters must be submitted for the approval of the district committee :—

(*a*) the budget ;

(*b*) the statement of expenditure by the directors and the accounts of the treasurers and collectors ;

(*c* and *d*) (certain contracts and leases of property) ;

(*e*) resolutions which effect any transformation or diminution of the funds ;

(*f*, *g* and *h*) various matters relating to staff, their pay and pension, resolutions regarding the collection of dues, and appearances in court.)

* * * * *

39. The district committee must, when reviewing the budget, take care that the expenses of managing public charitable institutions are reduced to what is actually necessary. When, with such view, a modifica tion of the articles is necessary, the committee should suggest such modification.

40. Before disposing of the matters submitted for its approval, the district committee may order, at the expense of the charitable institution, such verifications or examinations as they may think necessary.

41. An abstract of the resolutions of the district committee in their capacity as guardians must be published in the Prefect's gazette.

42. [Provides appeals to the Corte di conti and to the King.]

* The communal council is a body elected by the residents of a commune for the disposal of communal business : it meets, however, only twice a year and is similar in powers to the general meeting of a company, subject, of course, to the check and control of superior authorities. But the general work of the council is done by a standing committee (giunta) similar to the board of directors in a company. The mayor is a Government officer, and is the head of the communal administration.

† This is a committee (giunta provinciale amministrativa) composed of the Prefect (Collector) and six members who dispose of non-judicial (administrative) applications and appeals. There is one such committee for every province (district) of which there are 69 in Italy.

‡ Both the Prefect (Collector) and the communal council are specially empowered and required by law to keep watch over the management of these institutions. Section 106 of the communal law requires not only general watchfulness, but gives the communal council power 'to examine their management and inspect their accounts.' But they cannot of themselves interfere in the management and should communicate their proposals to the Home Minister.

The distinction betweeen the 'tutela' of the district committee, and the 'vigilanza' of Government (*see* next heading) is that the committee watches over the institution in the interests of the welfare of the institution itself, while the Government supervision regards matters from a public and general point of view, *e.g.*, the committee watches over the management of a Monte Frumentario to see that its operations are safe, prudent and economical : the Government supervises its effect on the public, notes whether it is carrying out the object of its foundation, and considers whether such object is desirable and its methods beneficial.

SUPERVISION AND CONTROL OF THE STATE.

* * * * *

44. The supreme supervision of public charity rests with the Home Minister. He watches over the regular management of institutions, examines their position both in the matter of their administration and in reference to their objects, and takes care that they obey the law, the statutes of their foundation, and their articles and rules.*

In each district one of the members of the Prefect's (Collector's) council, appointed thereto by the prefect, is specially charged with the duty of watching over the observance of the laws in the matter of public charity.

45. When the district committee or the managing body of an institution does not obey the provisions of section 39, the prefect may make to the Home Minister such proposals as may seem needful.

* * * * *

50. When the managing body of an institution, notwithstanding authoritative warnings, does not hasten to fulfil a duty required by the law or by rule, the political authority (Government representative) may order such fulfilment by means of a special delegate.

* * * * *

52. The Government authority shall cancel the resolutions and orders of the charity committee and other charitable institutions when they contain violations of the laws, or of the general regulations, or of any special statutes having the force of law.

(Various rules for carrying out the above provisions are also given.)

53. The prefect may, of his own motion, or on the request of the communal authorities, order at any time an examination of the offices and administrative acts of the charity committee and of the other charitable institutions and may verify the treasurer's cash balance.

The Government authority of the taluk (circondario) may, under the same conditions, order a verification of the treasurer's cash balance.

LAW GOVERNING THE POSITOS (GRAIN BANKS) OF SPAIN (26TH JUNE 1877).†

1. A standing committee shall be appointed in each province (district) called the permanent committee of positos. It shall consist of the Governor (Gobernador Civil, Collector) ‡ of the province as president, of the provincial agricultural officer, of two of the councillors (of the provincial council), of two members of the provincial committee of agriculture, industry and trade, and of two residents of the province elected from among the 50 persons paying the highest revenue as land-holders or cattle-breeders.

Members shall be nominated by the Home Minister. The Secretary shall be the person who is Secretary to the Provincial Agricultural Committee, but shall have no vote.

2. The commitee shall, as soon as it has been constituted, proceed to ascertain whether all the institutions under its supervision are in possession of the funds belonging to them. The Home Minister shall fix a date for the completion of such investigation.

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* The following are some of the rules contained in the Regolamento attached to the law :—

80. " All the above-mentioned institutions are placed under the supervision of the Home Minister.

Such supervision includes the right of requiring copies of every resolution of the managing body, of arranging for the cancelment of such resolutions, of ordering visits, examinations and enquiries into their management, with reference to their moral, educative and economic results, of obtaining the removal of the managing body and of prosecuting, when necessary, the members of such body or the staff, and of advising the managing body of such reforms as seem essential to the better accomplishment of the objects of the institution and for the public good.

81. The supervision which the communal councils are called on to exercise over these institutions by section 106 of the law relating to communes, does not confer upon them or upon their individual members any right of giving orders in or making arrangements for their business, or of intervening in the meetings of the managing body.

The mayor or a deputy chosen from the communal council has the right of examining at the office (of the institution) all the documents, contracts, and registers of the managing body, reporting thereon at the next subsequent meeting of the council.

82. For the carrying out of the provisions of rule 80, the member of the prefect's council charged with the duty of supervision under section 44 of the law, shall immediately report to the prefect every irregularity, abuse, infraction, omission or violation of the laws or articles, and, in general, every impropriety discovered by his examination of the management, or is otherwise brought to notice by the authorities (*e.g.*, communal council), by public report, by the press, or by private persons; he will also cause seasonable examinations to be made, and will report to the prefect his suggestions in any mattter.

At the end of each half-year he shall make a special report to the prefect—

(*a*) on the working of the institutions of the district;

(*b*) on the progress of any private suit against any institution (this alludes to the right of any private citizen to bring a suit in court in the interests of the institution or of the public : *see* sections 82 and 83 of the law);

(*c*) on the reforms approved of or under discussion;

(*d*) on the state of the capital of the institutions;

(*e*) on any resolutions cancelled for irregularity;

(*f*) the number of institutions unprovided with articles, rules, or treasurer;

(*g*) on the number of managing bodies dismissed;

(*h*) on the number of institutions under the several charity committees grouped or transformed;

(*i*) on the number and result of ordinary and extraordinary examinations of the cash balances, together with, in the latter case, the reasons for the same;

(*l*) on the arrangements which, in his opinion, may be necessary for the proper conduct of each institution.

A copy of this report shall be sent to the Home Minister.

85. (Provides for audit by the Government finance inspectors.)

† Various clauses of only local interest and meaning have been omitted in the translation.

‡ The word 'Collector' will be used in the translation of this law and its rules, since the word 'Governor' (Gobernador Civil) of a 'Province' is misleading to Indian readers. The words 'Collector' of a 'district' more nearly suits the meaning, or, to Europeans, 'Prefect of a department' as in France. The word 'district' is also used as a translation of the word 'Provincia', since an Indian 'province' is very different from a Spanish 'Provincia.'

3. Should any embezzlements be discovered, the committee must proceed forthwith to the recovery of the dues with interest, for which purpose it shall have all the powers granted by law to the public authorities for the collection of revenue.

4. The Home Minister shall, as soon as possible, forward to each committee a statement based on the statistics of 1863, giving all details relative to the funds of the positos.

5. If any of the positos mentioned in such statement, shall have been transformed (*e.g.*, into an agricultural bank) or suppressed, the committee shall note the fact on the file relating to such posito, and send it to the Governor (Collector) who shall forward it within 15 days to the Home Minister for final orders.

6. Every declaration that a debt is irrecoverable shall contain the words "temporarily and without prejudice should the defaulter recover his position." The municipal (communal) councils may grant time for the recovery of the debts, but not exceeding four years; Governors may allow time up to six years upon receipt of a recommendation from the committee.

7. The positos shall maintain their original form. Loans and interest shall be repaid in cash or in kind according to their nature. Cash loans shall bear interest at 0·5 per cent. per month, and may not be refused so long as there are funds in hand, the smallest loans being preferred to the larger ones.

The committee is authorized to convert cash funds into grain funds and *vice versâ*; but a report must be previously drawn up indicating the need for or utility of such conversion and the method of carrying it out. The consent of the Home Minister is necessary when the funds exceed £100.

8. (All immovable property belonging to the positos shall be sold at auction and credited to the respective institutions, except granaries and other buildings necessary for storing the grain funds.

9. The funds shall be administered by the municipal (communal) bodies to whom one-sixth of the gross profits shall be allowed for expenses. The communal councillors shall be individually but subsidiarily responsible for the loans granted.

10. The committee shall nominate to the Collector special delegates for the purpose of inspecting the positos.

11. The communal councils shall maintain separate accounts for the funds of the positos. If there are several positos in a single commune, the council shall endeavour to consolidate them into one.

The accounts of the positos shall be submitted by the councils to the examination of the provincial committee.

12. The Home Minister shall issue such orders and rules as may be necessary.

RULES* FOR CARRYING OUT THE LAW RELATING TO THE MANAGEMENT OF POSITOS.

Chapter I.

* * * * *

4. If any commune, in view of the duties imposed on it and powers granted to it by certain sections of the law relating to municipalities (communes), wishes to found a posito, it must draw up a file containing (1) the resolution of the communal council to found a posito; (2) a statement showing the funds and resources on which the institution may rely; (3) proof that the institution will be useful or necessary; (4) the building in which it will be accommodated; (5) the nature of the cultivation which predominates in the neighbourhood; (6) the extent and urgency of the needs which will be relieved by the posito.

5. [The file is to be sent to the Provincial (District) committee, who will send it, with their report to the Governor (Collector) for action.]

6. When the foundation of a posito has been approved it must be opened within one month, notice of the date of opening being sent to the Collector through the district committee, and published in the surrounding villages.

* * * * *

8. The sixth part of the profits allotted to the communal council by section 9 of the law shall be divided into two equal parts, one of which shall go to the managing committee of the posito, of whom the mayor and secretary shall be members, and the other for the expenses of administration.

Chapter II.

9. (Mentions various duties of the Provincial standing committee, including that of examining the accounts, &c., of the positos as per section 11 of the law.)

* * * * *

11. The committee shall meet for business in the Governor's (Collector's) office at least once a week. Every member must assist; if unable he must send an excuse in writing.

12. Any member absent without good excuse from three successive meetings, or failing to carry out a duty imposed on him, will be considered to have vacated his post.

* Only such rules as are of general interest have been translated. The words 'Governor' and 'Province' are generally translated by the words 'Collector' and 'District' as being the nearest corresponding terms.

Chapter III.—Accounts.

* * * * *

15 to 24 provide for the keeping of proper accounts, showing each loan and repayment whether in money or grain and for the preparation of an annual balance sheet and report: these latter are sent through the standing committee to the Collector.

25. The committee shall, on the 1st September, send to the Home Minister through the Collector, a general statement showing, in alphabetical order, the situation of the positos and the business done by each during the year. The form of this statement shall be prescribed by the Home Minister, who shall draw up a general statement for the whole country.

Chapter IV.—Repayments to the Positos, and the Rate of Interest.

26. The communes are bound to collect the sums due to the positos: they will, when necessary, use the coercive powers granted by the orders of 3rd December 1869.

27. Loans in grain shall be repaid with an increase of $4\frac{1}{6}$ per cent.* Interest and principal must be collected at the first harvest at whatever period the loan may have been made.

28. Payment of such loans must be made within three days after it falls due. The precise amount shall be signified to the debtor, and should it not be paid it shall accumulate at compound interest till next harvest. The whole amount of interest must be paid even though the debtor shall have settled his account before due date.

29. Grain debts may be paid in cash or in grain at the pleasure of the borrower, grain being commuted at the average market price of the village and its neighbourhood on the day preceding payment.

30. Cash loans shall bear interest at 6 per cent. per annum, or at 0·50 per cent. per month when the loan is repaid in less than a year, the months of payment and repayment being considered as entire months. The rules relating to grain loans shall be applicable to cash loans (*e.g.*, rule 29).

Chapter V.

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32. Declarations that a debt is irrecoverable shall be made after due proceedings taken by the commune against any debtor in arrears.

33. In such proceedings it must be proved beyond doubt that every administrative method for collection has been exhausted without success.

Thereupon the communal council shall propose to close proceedings against the defaulter on the ground that the debt is irrecoverable either from the defaulter, or from his surety, if any, or from the communal councillors if they have granted the loan without security or have neglected to proceed to recover the dues at the proper season.

34. On the above decision being passed the communal council shall transmit the papers to the Collector who, in consultation with the standing committee, shall give his decision.

35. The Collector of the district may declare the debt irrecoverable, adding, however, the additional clause contained in section 6 of the law (viz., that the failure is to be considered temporary and without prejudice should the defaulter recover his position) so that the debt to the positos may retain its preferential rank.

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38. Any delay granted for the recovery of a debt must only be allowed on the application of the debtor and upon a regularly drawn up proceedings in which the debtor and his sureties are bound, on giving good security, for the whole capital and interest due.

Chapter VII.—Inspection of the Posito.

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47. (Appointment of inspecting delegates and their visits of inspection.)

48. The inspectors must ascertain whether the minute books and accounts are clear and precise; they will correct any irregularities and take all necessary steps to prevent their recurrence. They shall report to the standing committee all that they have observed, noted, and done. They shall, when necessary, verify the accounts in view to ascertain the actual quantity of grain, money and other valuables which form the funds of the posito. They shall make an exact inventory of the loans granted and the interest thereon, with the names of the debtors and their sureties. They shall also arrange with the communal councils for any improvements which they may consider desirable.

* * * * *

Chapter VIII.

50 and 51. (Regulates the staff, clerical and account, to be employed under the standing committee, the scale being very moderate and economical.)

All these posts shall be filled by ex-employés of the civil administration.

52. Every posito in a district must pay (annually) one penny for every fanega ($1\frac{1}{2}$ bushels) of grain in their granary and 0·25 per cent. on their cash fund, to the standing committee, in order to meet the expenses mentioned in rule 51.

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* One-half celemin per fanega; 12 celemins or gallons go to the fanega which is equal to 12·2 gallons or $1\frac{1}{2}$ bushels. The grain interest is a fixed proportion whether the loan be for one month or twelve: usually the loan will be for six months or less.

MISSION BANKS.

These are still in conception, except for one or two Provident Societies as at Nazareth in Tinnevelly district. It is, however, understood from several missionaries, that small banks for the relief of Christian people belonging to their spheres of work are likely soon to be started. This is as it should be ; no part of the population is more deeply oppressed by usury than the almost invariably poor people who form the bulk of Christian congregations, while in the persons of their missionaries and other pastors, they have precisely the leaders who can place and instruct them in the way of thrift, prudence, and co-operation ; in fact, the very position of these congregations, excerpted from and, to a great extent, isolated amongst the rest of the population, should tend to bind them naturally in co-operative union. Moreover, the missionaries, instructed as they are in the necessity for and methods of thrift, prudence, self and mutual help, will be able very specially to stimulate and lead early efforts, though it is hoped that guidance will not mean governance beyond what is necessary.

Bellary, which has already distinguished itself beyond all other mofussil towns in the large number of its Nidhis—showing, *inter alia*, how ready the population is for such institutions, how promptly a good example is copied, and how easy it is to found and to work such institutions if but a few good men are available—is likely to have soon its co-operative Christian bank through the efforts of the Reverend B. Lucas of that town, while Cuddapah is not likely to be behindhand. The articles of the proposed banks are not, however, yet available.

The Salvation Army scheme is, similarly, in conception ; its praiseworthy hopes and efforts to raise, economically and socially, large masses of the poor, include a scheme for village banks or brotherhoods ; the scheme, as set forth in its tentative articles, includes a complex organization beginning—according to Salvation Army principles of organization—with the General and extending to the villages ; indeed, one of its weak points appears to be that it reverses Luzzatti's maxim, derived from practical experience, that popular credit for the small folk must proceed from without inward ; that is, village banks must first grow one by one, here and there in an area till there are enough to found a group in that area, and the several groups shall then form a further union with centralized powers of advice, audit, and assistance. The Salvation Army scheme, however, largely depends, even for its initiative and finance, upon the energy and capacity of the General, and this power is to be passed on by International, National, and District committees to the village brotherhoods, which are thus seen to be institutions of but slight local effort. The scheme, however, is only tentative, so much so that the publication of the articles is not yet permissible ; it is, however, greatly to be hoped that this powerful organization will very shortly see its way to practical experiment.

Mention is specially made here of the efforts or intentions of missionaries and mission agents, since one of the lessons taught by European experience is that when the foundation principles have been settled by practical experiment as in the Raiffeisen and Italian Banks, no one is a more valuable propagator or founder of such banks than the village clergyman, coupled with whom are generally found the village apothecary and the schoolmaster, with a proportion of lawyers and other philanthropic business men. In other words, the stimulus and the initiative must almost necessarily proceed from outside the classes to be benefited; it is the philanthropic men who *know* that must first take action. Hence it is very fitting in India that men, possessed of independent powers, true philanthropy, and economic knowledge, should experiment practically in the direction of organizing credit; the missionaries are in this position, and would probably be able to secure, whether from Government * or from other sources, the small starting and working funds necessary, and could thus work out the form of village or class bank which might be useful to their numerous adherents and persons with whom they are in touch.

Nevertheless it is on the energy, wisdom, and help of the numerous body of Government officials—retired or in their private capacity—of the still more numerous lawyers † and schoolmasters, and of associations elsewhere proposed—after the methods of France and Ireland—that India must mainly depend, at least at the start, for independent, self-helping, co-operative village banks, and it is but a poor national outlook if, with the knowledge even now available, both of needs and methods, for the organization of small credit for the masses of poor yet solvent and industrious ryots, the classes above named are disinclined to venture upon the experiment. Apart from philanthropy and duty with their own reward, there is the reward of an undying name and gratitude such as attaches to many names in Europe; it is not upon the Government but upon themselves that leaders of economic and social reform should call.

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* *See* Vol. I, pp. 26–28, 348, 377–78 and 392.

† The most strenuous promoter in France of village banks on the Raiffeisen principle is that philanthropic lawyer M. Louis Durand of Lyons, and there are very many others in France as in other countries.

CHAPTER IV.—AGRICULTURAL ASSOCIATIONS.*

INTRODUCTION.

One of the most noticeable features of industry and capital is the tendency towards association, whether it be in the form of the ancient guilds and corporations, or of the joint stock enterprises and trades' unions of the nineteenth century. Agricultural association, however, for reasons which need not here be mentioned, has till of late years been entirely wanting: association, that is, of the farmers and cultivators in groups for the furtherance of their immediate interests, as distinguished from the Agricultural Societies and Chambers of Agriculture for the promotion of scientific agriculture. The 'Farmers' Alliances' of the United States, the 'Syndicats Agricoles' and 'Bauernvereine' of France and Germany, and the 'Agricultural Labourers' Union' of England are but modern and partial efforts towards the former class of agricultural association.

In India such association is entirely wanting, and yet it is in India that it is most needed. The ignorance of the peasant, his hitherto isolation from the outside world, his consequent inability to hear of and his unreadiness to believe in other methods than his own ancestral modes whether of cultivation, business, or finance, and his exploitation by trader, broker, and usurer alike, require that he should be stimulated, strengthened, and educated in methods and business practices calculated both to lessen his expenses, to increase and improve his produce, and to give him a larger share of the same. That is the immediate work of Agricultural association, while, as shown *passim* in Vol. I, there flow from association, as it develops, incalculable other benefits, not merely economic such as credit, but moral and mental, as in the development of self and mutual help, of thrift and providence, of foresight and calculated effort, of self-reliance and independence coupled with friendly union and mutual intercourse. But the great difficulty in these associations is not merely in starting them, but in sustaining their early life till, being based on proved usefulness, they form part of the customary organization of the village. An Agricultural association, if it is to be more than a mere debating society, or than an artificial product with but a simulated and temporary life, must have certain defined and practical aims; it must yield tangible benefits, or the ryot will have none of it. The mistake hitherto has been that a petty society, imposed probably on a few farmers by external enthusiasm or influence, has not justified its novel and unsought existence to its members by giving them some visible good result: it has too often been a mere machine for spasmodic talk, or it has attempted crude experiments with unproved implements through unsuitable agents; the results are failure, the collapse of the society, and more deeply-rooted scepticism, just as the failure of the many Nidhis, fraudulently or foolishly started and managed, has been a serious blow to the organization of credit. The following remarks attempt to show that associations may at once be made so useful that they will have a life of their own, and may stand from the beginning.

The objects of associations are noted generally in section 107 of the Draft Bill in Vol. I, to which may be added "the promotion of rural industries, and the development of the various classes of Co-operative society."

Credit by associated effort has been dealt with fully in Vol. I, whether credit be sole object of the association, or the work of an annex.

Many of the other objects, notably 1, 2, 5, 6, 7, 10, 11 and 12 may be at once pursued with tangible and profitable results. Item (1) is the purchase of all stock and other requisites for agriculture including, of course, clothes and food. Those who have studied the methods of supply know at what heavy rates credit is granted in these items, and even where cash is paid, as for clothes, salt, &c., the necessity for small individual purchases means dear and bad goods. To discuss this further would be to discuss co-operative distribution; it need only be said that experience proves a gain of from 10 to 50 per cent. in the quality and price of goods obtained wholesale by a large buyer such as an association, the custom of which is valuable to any vendor. For instance, in the very first year of five of the Irish Societies promoted by the Irish Agricultural organization society in 1894, artificial manures to the amount of 2,055 tons were bought at rates varying according to the manure from £3-9-0 to £6-0-0, while the prices previously paid by the individual farmers ranged from £5-0-0 to £10-10-0, credit being given for the same time in both cases. The consolidated orders of members (*see* translation of the articles of French Agricultural associations) would be placed with tradesmen, or the association would purchase the goods in advance and sell by retail to the members.

Item (2) is perhaps more important, viz., the collection of produce from members and its sale to purchasers. Many valuable products such as cotton, sugar and jaggery, indigo, turmeric, tanning bark, &c., are sold by producers at much less than the market rates, because they are sold in small quantities to petty middlemen, who are frequently three or four times removed from the real purchaser; *e.g.*, cotton is bought by the large shippers not from the ryots but from brokers, who employ agents and

* This chapter is to be read as an *addendum* to Vol. I. In translating for Vol. II the articles of various French Agricultural associations, and on perusal of later information such as that regarding the 'Agricultural Banks Association' in London and the 'Irish Agricultural Organization Society' in Dublin, both formed only in 1894, it has become clear to the writer that a brief chapter on Agricultural association and organization is a necessity, as, it is believed, the text of the chapter will show. Moreover it is believed that the suggestion for an organization society, *i.e.*, a society formed for the sole purpose of encouraging, promoting, organizing and supervising village societies, will solve the difficult problem as to the formation of Village banks and societies. The suggestion is borrowed from the Irish Society above mentioned—a society which has already met with great success through the energy and zeal of its founders and members, and is apparently turning Irish peasant farmers rapidly towards co-operation: *see* text *infra*. It is by some such society that the corresponding zeal and devotion of earnest men in this Presidency may be utilized in overcoming the timidity, ignorance and *vis inertiæ* of the Indian ryot, and the necessity for Government interference minimized. The Mahajana Sabha or the aborted Agricultural association formed in Madras at a public meeting in 1892 might, with the assistance perhaps, of the Director of Agriculture, undertake this all-important rôle.

sub-agents to collect in small quantities from the villages; hence—and by reason of the system of advances, often on usurious terms—the ryot gets a price far below the real value of his cotton; he pays the wages and profits of several middlemen, while his necessities or ignorance or both, entail hard bargains. If an association should gather in the cotton from its members, and tender, say, 1,000 pothis direct to the press owner, it would obtain the best current price, avoid the costs of the middlemen by itself acting as such, and pay over the whole of such price to its members, less any advances with interest which it might have made to them; such advances, moreover, would be at equitable rates. Hence a large immediate saving and an equally large gain to the ryot members.

Item (5) is the establishment of Benefit funds: these may take various forms, and attention is drawn to the articles of a French vine-dressers' association for assisting sick members by contributing gratuitous labour during part of such period.

Items (6) and (7) relate to the provision of stud cattle and the employment of veterinary experts. Now that the method of dedicating bulls seems to be on the wane, it is imperative that a substitute be found: the purchase and use in common of good stud bulls and rams would be an immediate and obvious benefit. And while a single association might not be able to employ a veterinarian, a group could do so, especially with Government aid, in which case a veterinary station and stud depôt might be formed at many a centre.

Item (10) is the study and representation of matters affecting the agricultural industry. It is certain that where single voices, each untutored and incapable of properly stating a case, might not command attention, even though numerous, the temperate, well-stated case of an association representing such individuals, would, at all times, be of value. It is not merely that the association would represent a number of persons, but that the contents of the memorial would most probably have been duly sifted, extravagances or absurdities rejected, and only such matters put forward as might represent a grievance which would be real or which would genuinely seem real to the memorialists.

The reasons for proposed changes in the kistbandi, in the rules relating to well irrigation, in the methods of collection when irrigation sources have short supplies, in forest rules, and so forth, might all be represented by such associations with advantage to the ryots and to the administration. So again such associations would serve as distributors of information, as instruments of enquiry, as sources of information, and as agents for the conduct of experiments.

Item (11) is arbitration between agriculturists; this is partly provided for by the village panchâyat system, but associations would, even if not providing arbitration, be influential in directing their members towards arbitration by the panchâyat instead of allowing them to ruin themselves and to promote feuds and factions by unnecessary and vexatious litigation.

Item (12) is the joint carrying out of projects of irrigation, drainage, plantation, &c. There appear to be many opportunities wasted of taking over small irrigation works or of creating new ones, which are now neglected for want of joint action, while such associations could, by arrangement with Government, take over the duties of kudi-maramat, or by village arrangement, could carry out *quasi*-communal duties, such as the repairs to korambus for Cauvery channels in Coimbatore. In this way much useless Government interference could be obviated. In matters of drainage, again it would be possible, for instance, to arrange for the planting of large blocks of sugarcane, a frequent impossibility at present, because of the rights of neighbouring ryots to surface water so that a ryot is obliged to grow paddy when he would prefer sugarcane. Village plantations, moreover, might be taken up for the supply of fuel and grazing without the intervention of the Forest department.

In France and Germany the 'Associations Syndicales' * may be formed compulsorily, the objects of such associations being, generally, those of item (12); voluntary associations are preferable, if formed, and, in Italy and elsewhere, such associations are assisted with funds, &c., by the Agricultural department.

There are other immediate advantages such as those mentioned in section 114 of the Draft Bill.

The question, however, arises whether such associations can be started and maintained in countries where they are altogether novel and unsanctioned by, if not opposed to, custom. Probably the answer would, prior to 1884, have been in the negative in France and, prior to 1894, in Ireland, seeing how few Agricultural associations, even for the *quasi*-manufacturing industry of butter-making, existed in those countries. But the answer of the French peasantry is found in the 1,200 Agricultural associations with, perhaps, half a million members, formed in the eleven years since 1884; in Ireland the question is being answered affirmatively even among a peasantry where the rent and other questions are such delicate problems.

The following paragraph is taken from the *Spectator* of 11th January 1896, quoting the 'Times' of the 6th idem :—

"Perhaps, however, the most interesting of all the new and healthier signs are those connected "with the spread of the co-operative movement, especially in connection with agriculture. The farmers, "even of quite remote districts in the south and west, have, in many cases, literally flung themselves into "the co-operative movement. A couple of years ago Ireland was the despair of the co-operators, "now it is their boast. Not only has the movement connected with the creameries been spreading, "but Co-operative societies for enabling members to purchase jointly their seeds, manures, feeding "stuffs, and other agricultural requisites, have been started. How considerable must be the effect of "this movement may be judged from the following facts. A saving of at least £6,000 has been effected "in the purchase of artificial manures alone, † and even those who are not members have derived "advantage from the effect of the competition upon local dealers."

"Members," adds the writer in the 'Times,' "had an additional gain in the guarantee of good quality which analysts secured to the smallest purchaser." The following facts as to the Co-operative societies are also well worth notice :—"It is estimated that the sales of the Co-operative dairy "societies, as the creameries are called, will amount to £20,000 this year. The purchasers of the "Agricultural Co-operative societies in non-dairying districts, £5,000; and the turn-over of the Irish

* *See* elsewhere in this volume, translation of part of the law relating to the French "Associations syndicales." Mention of the voluntary and compulsory associations for drainage and other agricultural improvements is made on pp. 63 and 64 of Vol. I.

† This was in one year and by only five societies, the artificial manure being 2,055 tons in quantity.

"Co-operative agency society, £80,000. The quality of the butter is attested not only by the prices "obtained, but by the number of prizes won at Islington, Chester, and several other places. The number "of societies has increased from sixty-seven on March 31st last (1895) to eighty-seven at the present "date." "Very interesting, too, is the prospect offered by the establishment of what are virtually "land* banks. Four credit societies, we are told, have been established at Doneraile, County Cork, "Johnstown, and Urlingford, County Kilkenny, and Kyle, County Tipperary. Their object is to "get rid of the extortion of the 'gombeen' man, and make advances on moderate terms. Clearly "co-operation has a very great future in Ireland."

Even this does not fully express the change, since, prior to the 31st March 1894 there were only 33 co-operative creameries or dairies, no co-operative supply associations, and no co-operative credit societies or Village banks. The increase in dairies, the initiation of societies and Village banks, dates from the inauguration, on the 18th April 1894, of the Irish Agricultural organization society, the special work of which is the promotion of the co-operative movement in agriculture, especially as regards agricultural associations for supply, production—especially of butter— and credit. When so great a change as is mentioned by the 'Spectator' is synchronous with the inauguration and efforts of a special society framed *ad hoc*, it may reasonably be concluded that the change is largely due to such society. This in fact is the case.

The further question, then, is *how* are village associations to be started and maintained. In France, as shown in Vol. I, a number of energetic men took up the idea, preached it through the country, established small societies, and then formed Central societies for the assistance of the new associations. In Ireland the energetic and patriotic men corresponding to those of France, began in the more business-like way of forming, in 1894 an "Agricultural organization society," which is intended to last, as such, for only five years, within which time it expects to have formed a large number of associations, and to have placed co-operative or joint effort on a solid foundation. When this is done it is intended to form a "Central Farmers' Association" by delegates and representatives from each society; this central association formed out of the societies themselves, will then replace the original creative society which will have lost its *raison d'être*. The initiatory success of the society has been mentioned above; societies are being successfully formed, worked, audited and supervised, and it is anticipated that even the short term of five years will hardly be needed for the replacement of the original society.

It appears that, about 1889, the idea of co-operative production was adopted by certain reformers who pushed the idea with some success in the establishment of about 33 co-operative dairies in the south of Ireland. Progress, however, was slow, and the suggestion of systematizing effort by the establishment of an 'Organization Society,' the sole object of which should be the stimulation, establishment, and maintenance of Co-operative Agricultural Association, was hit upon. Accordingly an inaugural meeting was held on the 18th April 1894, attended by men of all shades of political and religious opinion. The Chairman (Honourable Horace Plunkett, M.P.) presided, and described the work of the intended society, and the necessity for its formation. The society was accordingly formed under very simple rules; it is a limited society, registered under the 'Industrial and Provident Societies' Act (*see* chief sections of the Act in this volume); its members may be persons, societies or co-operative bodies; its shares are of £ 1 value and transferable with the consent of the committee, but bear no dividend or interest; donations and subscriptions may be received from non-members. The object of the society is "to improve the condition of the agricultural population of Ireland, by teaching the principles and methods of co-operation as applicable to farming and the allied industries, to promote industrial organization for any purposes which may appear beneficial, and, generally, to counsel and advise those engaged in agricultural pursuits." (article 2).

As shown above, it has translated the object mentioned in the above article by stimulating, fostering and organizing a large number of local associations in its very first year, and with constantly increasing success; in its first year 315 meetings of farmers were held, each of which was attended free of all charge either by the Secretary of the Organization Society, by his Assistant, or by a local 'organizer' of whom five had been appointed; as a result of these meetings thirty-four societies in addition to the 33 established between 1889 and 1894, were organized and registered in 1894–95, and fifteen more were in an earlier stage. In addition to these meetings, the society started a weekly paper, 'The Irish Homestead,' price 1*d.* containing a large amount of suggestive information, a record of work, &c.: a large number of useful leaflets were also printed and circulated.

The following quotations or abstracts from the speech of the Chairman at the inaugural meeting of the society, and of other speeches, at the first anniversary meeting, are instructive.

The speaker, at the inaugural meeting, pointed out that the scheme dealt solely with the rural population dependent on the great agricultural industry. The industry was certainly capable of vast improvement, viz., in the practice of the Act, in the relations and connection between producer and consumer, in the supply to the farmer of his requisites and in agricultural finance. Unless harmonious and equitable relations could be established between these interests, agricultural development was hardly possible. Such relations might, however, be developed by what was strangely lacking in the farmer, viz., combination or association.

"While every other trade and industry has accepted the great essential of modern commercial life, namely, the necessity for combination, the Irish farmer, and for that matter the English farmer as well, continues to conduct his business on the old individualistic and exclusive lines which the progress of the world has swept away from every other avocation. This is not the case all over the world. If time permitted, I could show you how this principle is being accepted in other countries. I think it is not too much to say that, wherever the condition of the people in rural communities has, of late, been materially improved, it has been done by a combination of the people themselves for their own improvement. We often look with envy at the amount of money other countries spend upon agricultural interests; but you will find in all cases, that a pretty strong organization precedes Government assistance. When I come to deal with the plan of work which our association might adopt, I shall show you that our programme will consist mainly in inducing the Irish farmer to do for himself what has been successfully achieved by the farmers of other countries.

* This is an error for Agricultural or Village banks: they are not land banks in the true sense of the word, viz., land mortgage banks.

The key-note of our proposals is the proposition that the Irish farmers must work out their own salvation, and further, that this can only be done by combination among themselves. I am quite aware of the difficulty which at once suggests itself. It will be pointed out, that effective combination for productive or commercial purposes is not to be accomplished simply by a recognition of the fact that it is necessary to combine. An association which is not to be a mere debating society, but which is to be capable of joint action, must be organized on certain well-known, but rather complicated, lines in order to be permanent. The farmers, from the nature of their occupation, are incapable of evolving for themselves the principles which must be observed in framing such rules as will do justice between man and man, and harmonize the interests of all concerned. Even when a farmer grasps the idea that he ought to combine with his neighbours, he cannot put before them an intelligible and workable scheme. Now, here is the point at which, without any interference with his business, without weakening his spirit of independence, without any departure from the principles of political economy, we can do the Irish farmer a great service. To bring to the help of those whose life is passed in the quiet of the field, the experience which belongs to wider opportunities of observation, and a larger acquaintance with commercial and industrial affairs—that, gentlemen, is the object and aim of this society. Patriotism and philanthrophy alone will not avail, or the work would have been done long ago. I admit that this is no easy task. We have got to turn the current of national thought on these subjects into new channels. It will take the best men in Ireland to fulfil such a mission, but the best men in Ireland are with us, and the task will be performed."

The speaker then proceeded to discuss the several branches of co-operative work, viz., co-operative dairying already began on a small scale, co-operative sale distribution, co-operative supply of rural requisites, the dissemination of knowledge, the protection of common interest, arbitration, &c., and finally, co-operative agricultural finance, already found so successful on the European continent.

Not only, however, is association materially beneficial, but educationally in a wide sense of the word. "I wish to call your attention to another and very important aspect of local organization. While people differ as to the possible increased production which would result from improved husbandry, it is generally admitted that the soil of Ireland does not produce anything like what it ought to produce. An opinion prevails that the desired reform in our agricultural methods would follow upon the establishment of an Agricultural department, of which I shall speak presently. Now I have a strong belief, based upon a considerable amount of observation, that no means of improving the methods of farmers will be of any great utility so long as a central body tries to work upon unorganized individual farmers. House-to-house work with this object is slow, laborious, and utterly ineffectual. Habit exercises a predominant influence, which no amount of mission work can overcome. When, on the other hand, the individuals are organized into societies, then the latter form an easy channel for the dissemination of information, and a lever for the enforcement of better methods. And, in addition to this fact, you will find that in such an association the advanced thinkers come to the front, and that the others follow them—the whole process resulting in the triumph of intelligence and progressiveness over habit. The reason I lay stress upon these rather abstruse speculations, is that I consider one of the greatest achievements of our society will be the forging of a golden link between central, beneficial and philanthropic agencies, whether they be Governmental departments, or such splendid institutions as the Royal Dublin Society and the farming community whose condition it is sought to improve.*

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* The writer would here refer to his own suggestions on the absolute necessity for Agricultural association in this Presidency, as contained in a letter read in Board's Proceedings, No. 307, dated 30th August 1887 (Revenue Settlement and Agriculture) in a note prepared for the Agricultural Committee of 1889, and in Vol. I of this report, pp. 218, 366, &c.

The following is a quotation from the above-mentioned Board's Proceedings :—

"I consider that both for this and for agricultural experiment and progress generally, local associations are absolutely necessary. It is impossible to conduct experiments either by officials or by isolated ryots ; the former are too busy and too inexperienced ; the latter are too shy and conservative, too half-hearted and sceptical, too careless of the result of supposed official fads. We ignore, at present, the large amount of experienced indigenous agricultural talent ; we fail to utilize a vast and trained force lying to hand, because we have failed to organize it into a phalanx, and to combine scattered units into one organized whole, and to bring them into rank with our own forces. If competition is the nineenth-century watch word, association is doubtless advancing claims for the twentieth century ; this bond alone can unite the *disjecta membra* of the agricultural body politic. I consider, therefore, that we should organize in every district agricultural associations ; not isolated societies, dependent upon, perhaps, temporary local knowledge or interest and enthusiasm, but, while possessing local life and organization, dependent for permanent life and inspiration upon a central organization with head-quarters at the presidency town. The central organization would consist of all the best talent and knowledge available in the whole Presidency, worked officially in the Agricultural department, but corresponding, and having frequent conferences, with its members in the districts. These members would, of course, be principal members of the district associations, which in turn would have members in every chief town and village in a district. The result would be not only that the central association would be supplied with the correctest and best information on all agricultural and rural topics, but would supply information in turn even to the remotest villages, and all this at the least possible expense. Not only so, but real experiments would at last be possible and popular ; at present a ryot, if induced by a Tahsildar to take up an experiment, is not only sceptical and carelese, but rather ashamed of departing from ancestral methods ; the result is, of course, failure. But if experiments, wisely chosen by an agricultural bureau composed as above, were entrusted to local associations and by them, to selected members, these latter would not only have the whole intelligence, skill, and resources of the association at their back, but would be rather proud of being selected as delegates, while the experiments, as the suggestions of men of local status, would command greater interest and faith than officially-ordered trials. Moreover, many suggestions are now obliged to be put aside, because, the Agricultural department cannot find time or space to work at them ; the associations would supply a thousand hands and a thousand acres if need be. The results of experiments, moreover, would be rapidly spread over a district, instead of being confined to the pages of the District Gazette. Finally the associations would provide the talent necessary for stimulating and judging competition in prize farms, exhibitions, school farms and the etceteras of agricultural progress. These and many other results will follow skilfully formed associations."

The above was written when the French Agricultural associations under the law of 1884 were only beginning, and in ignorance of the facts of and of the possibilities open to agricultural association in the way of providing credit whether in the form of Raiffeisen banks or as annexes to agricultural associations proper ; the Irish Co-operative societies also were not then in existence. Hence the recommendation of 1887 made no distinct mention of objects which, though then called "the etceteras of agricultural progress," would now be named 'essentials.' Moreover, too much prominence is, perhaps, given to the functions of the Agricultural department in connection with the central organization society.

Organization more beneficial than Government interference.

I must now say a word upon the larger questions, which must be dealt with by a wider organization of agricultural interests. And here again, if I had my way our method of proceeding would differ essentially from the popular conception. The farmers of Ireland, who have never had any idea of the power of business organization, believe that help can only come from the Government. An Agricultural department is now a pet remedy, and so long as its functions are limited to what such departments have done successfully elsewhere, it certainly should be created. But that any Government assistance, whether legislative or administrative, can do one tithe of the good which can be done by organization, is certainly a popular fallacy. The Government can undoubtedly, through its Consular reports and other means at its disposal, disseminate information which cannot be obtained by private enterprise. They may be able to deal with technical education more effectively than it can be dealt with otherwise. They can also protect us from (cattle) disease, and I have no doubt that there are many functions which are now performed by four or five different departments which would be better entrusted to a single Agricultural department. But when it comes to the far larger question of the relation between agricultural and commercial interests, including the arrangements and charges of railway companies, the limits of Government interference are obviously very narrow. It becomes, then, necessary for the farmers to have a thoroughly representative organization to safeguard their interests, and, if necessary, to promote needed legislation.

I look forward to the constitution of a central Chamber of Agriculture, to which delegates would be sent from the local societies which we should have organized. You will easily see how thoroughly representative of the farming interest an association built up from the foundations in this manner would be. As soon as the local associations were sufficiently numerous to give this central body a right to speak for a large portion of Ireland the mission of our society would be fulfilled."

The speaker then went on to describe the *modus operandi* of the inchoate society: its first effort would be to establish an organizing staff: the duty of the society was, at first, to be purely propagandist, and that duty could only be carried out by men of high intelligence, special qualifications, and large knowledge both agricultural and other. These men should be well paid and should spend their time in stimulating and persuading the farmers to association, travelling from place to place as required.* The Press would also be largely utilized, together with the efforts of volunteers. For this purpose, money would be required which would be provided from shares, donations, &c.; up to date above 5,000 shares of £1 each had been taken up; the shares would pay no dividend.

Finally, the speaker pointed out that the society provided no universal panacea and promised no millenium; it was merely a beneficial scheme of self-help, to be stimulated, indeed, by the society and its workers, but to be carried out by the peasantry themselves.

"Ours is a modest programme of organized self-help. Every other attempt to reach the same ends as those for which we are striving has been, so to speak, imposed upon the people from above. We build from the very foundations. We go to the people themselves in no patronizing spirit, but we ask you to believe that their latent capabilities, no matter to what causes you attribute the fact that they have so long lain dormant, can be aroused by the simple influence of intelligent philanthropy. We cannot guarantee immediate success or even rapid changes. We should be prepared for months, perhaps years, of apparently fruitless but most beneficial toil. "†

At the first anniversary meeting of the society Mr. Plunkett again pointed out the need for, and benefits of, association. "To put the matter briefly, the farmer, by improving his own methods, by purchasing what he requires in his business more economically, by getting his stock and produce, carried more expeditiously, carefully, and at lower charge by having them distributed among the consumers with less deduction for middle profits; and by importing into the agricultural industry the same credit facilities, as are customary in all other industries, could not only vastly improve the material conditions of his industry, but in the process could not fail to effect a very considerable physical and moral improvement upon himself as a man. The fall of prices being mainly due to foreign importation cannot be legislated away, but can only be suffered and competed with. To enter on even terms upon such a competition, the farmer must address himself to the improvement of his business in every one of the ways in which I have submitted it is capable of improvement. That this generation would see any radical change in these respects unless some entirely new light were thrown upon the subject, and same entirely new influence were brought to bear upon the persons concerned was more than there was any reason for the most sanguine to anticipate. By the help of that powerful auxiliary which we have invoked, namely, organization, we believe that the whole field can be covered the whole task performed."

The speaker then detailed the success of the operations, mentioning especially the stimulus which the society had given to the work of co-operation which had but slowly progressed in preceding years. The work of the 'organizers' paid by the society or assisting as volunteers, was pronounced to be beyond praise, and it is obvious that the success of the society was largely due to their work. The total expenditure for the year in every way was only £1,579, and this included the cost of the *Irish Homestead* and other literature. The experience of the society, moreover, was that it brought men of all classes and opinions together in harmonious co-operation.

Other speakers pointed out that the schemes of the society were orginally viewed with distrust and suspicion, but that a short experience of its work developed so great a volume of co-operation that the society found a difficulty in dealing with it; the aptitude of the Irish peasant for co-operation had been doubted, and it had been expected that his innate distrust and conservatism would crush the zeal of the promoters; these doubts had not been realized and the society had succeeded beyond the hopes of the most sanguine. The defects of the peasant were largely due to his ignorance of what was being done in other countries; as soon as the society proceeded to dispel that ignorance and to teach

* As mentioned above, five local organizers were appointed in the first year, who with the Secretary and Assistant Secretary assisted at 315 farmers' meetings, and were instrumental in forming or beginning 49 societies in that year.

† As a matter of fact, the toil was immediately fruitful, as shown by the facts mentioned above; the Irish peasantry, previously the despair of co-operators, became their boast. The similar sucess of the French Agricultural associations among the French conservative peasantry, may be compared.

the methods by which the peasant farmer might help forward his own improvement, he began to accept those methods and to clamour for assistance in developing them; every day letters were pouring into the office, requesting that the organizers might visit the districts and give instruction in the methods which were leading to prosperity.

Such, then, is the record of the past year's work of the "Irish Agricultural Organization Society," and it remains to suggest that a similar society be now instituted in this Presidency. The Director of Agriculture, with his powers and duties enlarged by Government or, if necessary, by legislation, to include the work of a Commissioner of Rural credit (*see* Vol. I, pp. 29, 218, 303, 349 to 352, &c.), may initiate, but not as a Government institution, a Central Association for the promotion of agricultural associations, credit unions, &c., its funds, including a Government grant-in-aid, being utilized in the manner above indicated.

The central association, when formed, should establish a thorough propaganda,* by means of conferences, lectures, leaflets and a cheap journal; it should appoint qualified organizers for local stimulation, assistance, and supervision, and should report annually, to a general meeting, the results of its work. Such an association has an open field before it for the development, not merely of agriculture, but of the agriculturist, and there appear absolutely no limits to the beneficent results of such an organization, working for the establishment of co-operative institutions, whether as Agricultural associations, pure and simple, or as savings and credit institutions.

The following pages of this chapter contain the laws and articles regulating various classes of Agricultural associations in France and Italy.

LAW AUTHORIZING PROFESSIONAL ASSOCIATIONS (FRANCE) 21st March 1884.†

1. (Repeals or renders inapplicable certain laws which forbade or forbid associations of the industrial or professional classes, either absolutely or except under the express authorization of Government.)‡

2. Syndicates or professional § associations, even though consisting of more than 20 persons of the same profession, of similar trades and callings, or of connected professions united for the production of particular articles, may be freely established without needing the authorization of Government.

3. Professional associations shall be exclusively devoted to the study and protection of their interests whether economic, industrial, commercial or agricultural. ||

4. The founders of every professional association must register their articles, and the names of all those who, in any capacity, are charged with their management or conduct.

This registration shall take place at the local mayor's office, and shall be renewed at every change in the directors or articles. The mayor must communicate the articles to the public prosecutor.

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* The value of a persistent propaganda is not only seen in the facts of this chapter, but elsewhere. For example, on p. 179 of Vol. I, it is stated—under date about 1892 or 1893—that France is singularly behindhand in the matter of popular banks, and that, except in towns, such banks or loan societies (co-operative) hardly exist. But in 1889 was held the first French Congress of enthusiasts in the matter of popular credit and rural banks, and the successive congresses, held annually, have gradually developed the views of the attendant members towards Raiffeisenism as the true principal for village banks. It was, however, only about 1893, that this principle took complete hold of certain enthusiastic and devoted members, who then established a "Society for the Propagation of Popular Credit," the main principles of which appear to be those of Raiffeisenism. The society stimulates in various ways the establishment of rural banks and its monthly Bulletin is a record of progress. M. Louis Durand, the learned author of 'Le Crédit Agricole' (1891) and one who may justly be called the Raiffeisen of France, writes under date 17th February 1896, that the number of Raiffeisen societies in France has already reached "nearly 400, engaged in small but safe business and rendering great service to 'la petite culture.'" Such, then, is the result of only three years' actual work amidst a population believed hostile or unsuited to Raiffeisenism: 50 years of schemes resulted in nothing; half a dozen years of public discussion of which only three were devoted to an active propaganda, have resulted in the above splendid beginning.

† *See* Vol. I, pp. 219–20; also p. 127 and pp. 179–181.

‡ The laws of 1791 abolished trade and professional guilds and forbade their resuscitation and even the meeting of the members of a trade, industry, &c., for discussing their common interests: the provisions of that law are draconic and peremptory to a degree, and are the result of the reaction from the pretentions of the old close guilds which formed monopolist bodies, each claiming the right of determining who should or should not enter a particular trade. Hence the new law went to the opposite extreme and forbade any trade, &c., associations, and this restriction was in force till abolished by the present Act. Sections 291–94 of the Penal Code are now rendered inapplicable to societies under this law; section 291 is worth reproducing—

"No association of more than 20 persons, the object of which shall be the meeting of the members either daily or "on given days for devotion to religious, literary, political, or other subjects, shall be formed without the permission of "Government, and under such conditions as may seem good to the authorities to impose upon the society."

Industrial and trade associations are evidently not specially mentioned since they were, at the time the code was framed, absolutely forbidden. The section has been literally translated.

§ The French word 'profession' is less restricted than the similar English word, and embraces trades, callings, business.

|| The almost accidental introduction of the word 'agricole' by which agricultural associations became possible, is noteworthy.

The provisions of the section are liberally interpreted as will be seen by the model articles, and by the work done by the societies. *See.* Vol. I, p. 219, &c.

The chief operations in which agricultural associations may engage under this law are (1) technical training; (2) agricultural education; (3) the establishment and working of fields for experiment and demonstration; (4) nurseries; (5) agricultural meetings (and shows); (6) the grant of prizes (for cattle, produce, good farming, &c.); (7) the purchase of stud cattle; (8) the training of apprentices; (9) the formulation and despatch to Government of opinions and resolutions; (10) reports and legal matters (*i.e.*, the law affecting agriculturists); (11) the establishment of friendly and provident societies; (12) the establishment of workshops, of co-operative stores, of credit societies, and of societies for assurance against hail and cattle disease, &c.; (13) provision for advice, conciliation and arbitration; (14) the purchase of genuine manures, seeds, and implements for the members at wholesale rates; (15) provision for enabling members to place their produce profitably on the market and so forth.

It is intended shortly to issue a separate study on the Agricultural Associations of Europe.

All members of an association, who shall be charged with the conduct or management of an association, shall be French, and in possession of their civil rights.

5. Professional associations, regularly established under the present law, may freely unite into groups (se concerter) for the study and protection of their interests whether economic, industrial, commercial or agricultural.

These unions must give notice, according to the provisions of section 4, of the names of the several associations grouped in the several unions.

Unions cannot possess any immovable property, nor are they corporations which can appear in court (ester en justice).

6. Professional associations of masters and workmen are capable of appearing in court.

They may collect and utilize subscriptions. They shall not acquire any immovable property save such as shall be necessary for their meetings, for their libraries, and their technical schools.

They may, without further authorization, but in conformity with the law,* establish among their members offices for mutual benefit and pension (friendly and provident branches, caisses de sécours mutuels et de retraite).

They may freely institute and manage offices for supplying information relative to the demand for and supply of labour.

They may be consulted on all matters of dispute, and on all questions relating to their special object.

In matters of dispute the opinions of the associations shall be placed at the disposal of the parties who may take copies thereof.†

7. Every member of an association has the right of withdrawal at any moment, notwithstanding any agreement to the contrary, but without prejudice to the right of the association to collect the subscription of the member for the current year.

Any person retiring from an association retains his right of membership in the (affiliated) friendly or provident societies to which he may be a contributor.

8. When property has been acquired by an association contrary to article 6, the public prosecutor or any interested person may sue for declaring such acquisition to be null and void. Where such acquisition has been of necessity (as for a debt) the property shall be sold and the proceeds credited to the society; where it is the result of liberality (gift or legacy, &c.) it shall be handed over to the grantors, their heirs or successors.

9. In case of violation of sections 2, 3, 4, 5 and 6, the directors or managers may be prosecuted and fined; the courts may also, on the motion of the public prosecutor, decree the dissolution of the society and the nullity of the acquisitions mentioned in section 6.

False declarations in regard to the articles, to the names and status of the directors or managers may be punished with fine.

MODEL ARTICLES FRAMED FOR THE USE OF AGRICULTURAL ASSOCIATIONS UNDER THE FRENCH ACT OF 1884.‡

1. (Formation of the association.)

2. (Name, location and duration.)

3. *Members.*—Any person may be a member—

(1) who is domiciled or owns property within (such and such an area), and who works such property either personally or by tenants or labourers;

(2) who is a tenant of any description (fermier, colon, métayer) cultivating a farm in such area;

(3) who is a labourer or farm servant working on any such farm;

(4) who, being domiciled in the said area, carries on a business connected with agriculture, and with rural produce.

4. Candidates for membership must be recommended by two members to the committee who will decide regarding their admission.

5. (Similar to section 7 of the law.)

6. Bankruptcy, insolvency, punishment affecting a man's reputation, default in payment of subscription after three written demands, suffice for dismissal which will be ordered by the committee.

7. Objects of the association.

"The association has been established generally for the purpose of studying and protecting the "interests of the farming class, and for the following purposes in particular:—*Firstly*, to initiate "legislative reforms of an economic character, especially in matters relating to taxation upon land, "railway rates, commercial treaties, customs duties, tolls of fairs, &c.; *secondly*, to disseminate technical "instruction by lectures, pamphlets, the establishment of libraries and all other means including fields

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* That is, the general law of societies, and the special laws relating to benefit and friendly societies.

† These provisions grant certain privileges not apparently allowed at common law. The section is not restrictive; associations may and do engage in many operations not included in this section, but which come under the general provisions of section 3.

The function of the associations in forming friendly and other societies has been taken advantage of and developed in the new law (November 1894: see translation *supra s.v.* "Agricultural credit") for the encouragement of credit annexes to these associations. Their usefulness as sources of information and as consultative or experimental bodies will be unbounded.

‡ These are framed by the "Société des agriculteurs de France," a union of associations formed under section 5 of the law. Many associations make gratuitous servicesa necessary condition of membership. For the articles of a credit annex to one (Poligny) of these associations *see* the translation *supra s.v.* "Agricultural Credit."

This programme is, with a few slight additions, taken from the articles of the Agricultural Association of the District of Indre. *See* also note to section 3 of the law.

"for experiments and demonstration; *thirdly*, to promote and aid agricultural experiments in the use "of manures, machines, implements, and all other means calculated to economise labour; to reduce "the cost of production, and increase the volume of products; *fourthly*, to encourage, to create, and "to administer economic institutions, such as agricultural banks, societies for production and for sale, "mutual benefit societies, superannuation funds, insurance against accidents, sickness, cattle disease "and hail, offices for furnishing information with regard to the demand and supply of agricultural "produce of animals, seeds, machine, and labour; *fifthly*, to grant aid so far as its funds allow, to "members who, *quâ* agriculturists, have suffered severe losses; *sixthly*, to act as an agency for the sale "of agricultural products, and for the purchase of manures, seeds, implements, cattle, raw material, "and manufactured commodities useful for agriculture; and this in such a way as to secure to "members the benefit of the discount on large purchases; *seventhly*, to supervise the consignments of "these articles made to members, or obtained by them, in order to guarantee genuineness and to "prevent fraud; *eighthly*, to collect information as regards local customs and methods, to give advice "and guidance upon all matters bearing upon agriculture, and to supply arbitrators and experts for "the settlement of disputes among agriculturists which would otherwise lead to litigation."

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9—21. *Management*.—(This is by a working committee, a board from the members of which the committee is appointed, and the general meeting. The several powers and duties of these authorities do not require translation; no condition is made in the model articles that services are to be gratuitous, but this seems to be implied, as the Secretary is expressly allowed his "actual office charges." Many associations lay down a distinct rule that "all services shall be absolutely gratuitous." The Board of 18 members is divided into three sections, amongst which are distributed the several subjects to which the association devotes itself; it is largely a consultative body, but especially charges itself, as a body, with conciliation and the decision of disputes. Conciliation is a matter to which attention is to be expressly devoted, in view to prevent the bad feeling and waste of money caused by litigation; *see* "rules for the conciliation committee" of the Agricultural Association of Cadillac, &c., translated below.)

22. *Funds*.—The funds of the association shall consist (*a*) of the regular subscriptions of the members; (*b*) any gifts or donations; (*c*) of any subventions which may be granted.

23. Every member must pay annually the fixed subscription.

(The remaining articles are not important.)

ARTICLES* OF THE AGRICULTURAL ASSOCIATION OF PERIGORD.†

1. (Name of the association.)

2. Any person may be a member who follows any branch of agriculture as cultivator, labourer, manager, or proprietor, who holds a farm either as proprietor or tenant, who manufactures or sells agricultural produce, raw or manufactured,‡ or who is a clerk or workman under such person, or whose studies, business, duty, or teaching is connected with agriculture.

3. (Candidates must be presented by two members.)

4. The objects of the association are as follows:—

(1) to promote intercourse between the members, and to watch over the general interests of agriculturists;
(2) to study and introduce to notice (présenter) all reforms, economic measures, and claims shown to be necessary and to support them before the public authorities;
(3) to study and encourage all possible improvements in agriculture, and to teach and widely diffuse the methods of the same;
(4) to assist by its knowledge and experience any members who apply to it for the solution of any agricultural questions;
(5) to settle, by amicable means, all disputes which may arise among members §, to supply the courts with lists of competent arbitrators and experts, and to assist in the defence of the interests of members by supplying opinions, with the reasons for the same:
(6) to verify the rules and customs obtaining in the district as regards the relations between proprietors, tenants, servants, labourers, traders, suppliers of cattle on the sharing system (à cheptel), &c., and to facilitate a good understanding between the several classes;

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* Article 7 of the model articles includes every variety of activity to which an agricultural association could devote itself, but it is impossible, at least at first, for any one society to take up the whole of so many and far reaching subjects. Moreover many of the subjects are those which appeal less to the small farmer with his few but distinct ideas than to the wide-eyed rural economist and reformer. Hence it is found in practice that few associations take up anything like so many subjects, and that they chiefly devote themselves to a few practical activities which meet the immediate wants of the peasants, *e.g.*, the supply of good manures, seed, implements, cattle, &c., the placing of produce on the markets, and so forth. The following, however, may be specially mentioned, viz., societies for the insurance of cattle, for mutual assistance by contributions of labour in case of distress, for conciliation, and for agricultural credit. The last named has been dealt with *s.v.* the credit annex to the Poligny association (*See* "Agricultural Credit" *supra*); societies for the mutual assurance of cattle against death by disease or accident—as distinguished from natural decay—are of too advanced a nature for the present condition of this country, so that a translation of these articles would be useless. A few rules from the articles of some other societies may, however, be given with advantage.

† This is a very large association with a wide area of operations and with very wide objects; it extends over a whole department (district).

‡ *E.g.*, sugar from beet root, &c. But the wording is very wide.

§ That is, among members not merely *quâ* members, but as agriculturists and neighbours, and in the ordinary relations of life.

(7) to assist members generally by establishing an enquiry and registry office for the purpose of sales and purchases; *

(8) to improve the condition of all members by stimulating or assisting, if possible, the foundation of agricultural banks, of friendly and benefit associations, and of assurance and provident societies, and by helping and protecting the interests of heirs of any deceased member.

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7, &c. [The association extends over 50 cantons or groups of communes (villages), and has accordingly 50 sub-committees, one in each canton or section, besides major committees for each circle (taluk): each section elects a member to the General Board (chambre syndicale), which has therefore 50 elected delegates besides 50 founders; these latter are ordinary members who have paid a special fee of £4. The General Board represents the Association and works ordinarily by a Select Committee, but retains general control over the various objects of its business, for which purpose it delegates its powers to committees of special technical knowledge. The general provisions for the working of the several bodies do not need translation.

The sectional or cantonal sub-committees are elected by general meetings of the members residing within the section.

There is a general meeting of all members once a year.

The subscription for ordinary members is 3 francs (Rs. 2) per annum: any member may retire when he chooses, and is liable to expulsion if he breaks any rule of good faith or honesty, or if he has not fulfilled his engagements to pay for goods supplied through the association, or if he supplies non-members with goods by means of the association. The managing committee must call up such member before dismissing him, and an appeal lies to the General Board, the decision of which is final and not susceptible of contestation before any court.† All members who shall be condemned to a punishment involving degradation shall *ipso facto* lose their membership.]

ARTICLES OF THE AGRICULTURAL ASSOCIATION OF DIE (DRÔME).

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2. The object of the association is to purchase in common ‡ raw material, especially manure, necessary for agriculture, with the view of getting it at a cheap rate. It proposes above all to prevent its members from being cheated in the purchase of manure. It will strongly endeavour to enlighten cultivators in the choice of fertilizers suitable to the nature of their soil and crops.

The association proposes, moreover—

(1) to study all economic measures and all legislative reforms which the interests of agriculture demand, to seek their realization through the public authorities;

(2) to stimulate and encourage experiments in cultivation, in the use of manures, of improved implements, and of other means for assisting labour for reducing the cost of cultivation, and for increasing the outturn;

(3) to establish an enquiry and agency office for the sale of (members') produce, for the supervision of deliveries (of goods ordered), for the purchase of seeds, implements, animals and other agricultural necessities, so that members may obtain the full benefit of the discount (obtainable on wholesale dealings).§

3—30. (The organs and methods of administration are of the usual character; the seven members of the Board of Management are wholly unpaid.)

31. *Purchases and sales.*—The President of the Association buys goods in his own name on behalf of the association, all members thereof being responsible in proportion to the amount of their annual subscription.

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* That is, where members can enquire current prices for sale and purchase, and can register and accept orders for goods.

† The legal basis for this condition which does not appear in the law, but is entered also in the model articles, is not apparent; presumably it is the result of the contract entered into by the member on joining the society. In India, the Contract Act considers as void an agreement excluding resort to the courts. In the British Friendly, Provident, and Building Societies' Acts however, it is expressly laid down that disputes may be settled according to the method prescribed in the articles, and that such method and the decision thereon shall be final, and not removable to any court or be restrainable by injunction.

‡ That is, the members give in their individual orders to the society's office, and the directors then give a joint wholesale order to the manure, &c., merchant. In this way not only is each member saved the labour of ascertaining and dealing with a distant merchant, but (1) he profits by the discount granted on wholesale orders, (2) he obtains a genuine article.

§ By means of this agency office members can not only ascertain the current prices, but also what demand there is for their produce and the names of persons requiring it. The society will only have on its books the names of respectable merchants or brokers, and these will be only too glad to place their orders with a society in order to be saved the trouble, cost and danger of dealing with a number of small and scattered farmers. The society thus performs, *gratis*, one of the most useful of functions, viz., that of the middleman, and being absolutely disinterested or interested only in the welfare of its members, that is of itself, it performs those functions not merely gratuitously but very heedfully. If an association of this sort could save its members only 10 per cent. on their purchases, and gain 10 per cent. for them on their sales—and these figures are well within the actual mark—the ryot would gain 20 per cent. profit above that which he would gain under the ordinary middlemen. In other words if associations of this sort were universal, the whole land-tax of this Presidency might easily be paid from the increased profits.

The introduction of the subject of Agricultural Associations in a treatise on Agricultural banks is thus seen to be strictly relevant; the village bank must be the village broker and middleman, for "a penny saved is a penny gained," and it is not merely by credit, but by the diminution of charges, by the increase of profit and by the stimulation of the saving of such profit that the village bank will assist its clientèle. To these considerations should be added those in Vol. I, page 179 *s.v.* France, and page 218.

32. The bills of merchants are drawn in the name of the President, and are paid by the society's bankers after being accepted by the President.

33. Every member must pay for his goods in cash when taking delivery on the day fixed for the purpose.*

In case of urgency the amount may be sent in advance to the President, in which case the cost of carriage (of the goods) must be borne by the consignee.

34. (Orders for manure to be given in due time, before fixed dates, on printed forms, so that they may be placed with vendors in a consolidated order.)

35. The orders † shall be put to auction or negotiated for in presence of the committee.

36. Goods shall be delivered free ‡ at the railway station. Three samples shall be taken from each truck load of manure, seed, &c., under the conditions prescribed in article 11§; one shall be sent to the chemical analyst, || a second shall be kept by the President as evidence, and the third shall be sent to the vendor if he wishes for it.

37. (Rules provided where the member wishes to receive the manure, &c., direct from the vendor; in this case the stationmaster is asked to be present, instead of the President, at the taking of the samples.)

38. Legal proceedings against merchants for breach of contract shall be made in the name of the purchaser interested, but at the cost and under care of the association. No legal proceeding shall be taken without the consent of the Board, which shall discuss the matter and charge the President with laying information at the office of the public prosecutor.

39. Members are absolutely forbidden, under penalty of expulsion, to order or receive manure or other goods under their own name for non-members.

ARTICLES OF THE AGRICULTURAL ASSOCIATION OF THE CANTONS OF CADILLAC, &c. (GIRONDE).

(Rules for the Board of Conciliation and Advice).¶

1. The duties of the Board shall be—
   (1) to reply to legal questions submitted by members of the association;
   (2) to endeavour to reconcile members who are in dispute;
   (3) to supply arbitrators and experts for the settlement of matters in dispute between members when attempts at conciliation have failed.

2. Arbitrators and experts shall be chosen only from among members of the association.

3. (Composition and meetings of the Board.)

4. The duties of members of the Board shall be performed gratuitously. Members acting as arbitrators and conciliators may only be allowed the actual cost of travelling when it is necessary for them to visit a place in the execution of their duties as arbitrators; such charges shall be borne by the parties.

5. Every member of the association who desires to obtain advice on a legal matter affecting him, is entitled to present himself before any member of the Board and explain his difficulty on the sole condition that he proves his membership.

6. Should any dispute which might develop into litigation arise between members, the more prudent of such members should take the case before the association; he should state his claim briefly, whether orally or in writing, with the names, &c., of the opposite party, and a declaration of his desire to submit the matter to the Board of Conciliation and Advice.

7. The person appointed for that purpose will enter the claim in a special register, communicate it to the opposite party, and mention the name of the conciliator chosen by the plaintiff. Within ten

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* The association of Allex provides as follows:—

"35. In order that the President may have no difficulty and may avoid all pecuniary responsibility in dealing with "the merchant, every member must pay for his goods in cash when giving his order; such amount to be paid to the "treasurer. These conditions are absolute and not to be departed from under any pretext."

On the other hand, another Association provides as follows:—

15—17. Endeavours will be made to grant credit for as long as may be possible. All purchases (made by the society) being for cash, long term credit will be allowed only on payment of a 6 per cent. supplement as interest on the advance. Time may be granted for either two or four months from date of delivery, the time required being entered by the member on his order. In case of non-payment at due date the President shall at once proceed to recovery with all charges. Every member shall specifically bind himself to give, as a guarantee for the advance, a lien on his cattle up to the amount due.

† That is, the consolidated orders of the members shall be bid for or tendered for by tradesmen or merchants.

‡ Each member, of course, pay his share of the costs of carriage; another association enters the sum due by each member as follows: (1) the net cost of the goods; (2) the cost of carriage, (3) 1 per cent. commission to the society; (4) any charges for recovery of dues, stamps, demurrage, warehousing, packing, &c.

§ This provides that the President and two delegates shall, on the arrival of the goods, take the samples; the endor or his representative shall be present if he so desires.

|| In another association the cost of analysis is distributed as follows: on orders for 10,000 lb. of manure the vendor bears the charge (presumably by contract); from 2,000 to 10,000 lb. in equal shares by the vendor and by the association; under 2,000 lb. by the association.

¶ This is a special sub-committee appointed by the general meeting of the association; *cf.* the "probi-viri" of the Italian Popular banks.

days the defendant, if he agrees to have recourse to the Board, must accept the plaintiff's nominee and appoint one on his own part.

8. Should the two conciliators differ, they must appoint a third to decide between them; if they cannot agree as to the third person the Board of Directors will appoint one.

9. The disputants must appear before the conciliators at the appointed time and place.

10. The result of the meeting must be entered in the register mentioned in article 7, and, if necessary, the minutes of the proceeding shall be filed in the records of the association.

11. Should conciliation fail, the members of the Board may be appointed as arbitrators. In such case they are forbidden to accept any remuneration or honorarium.

12 and 13. (Should they be appointed not as judges but as experts or commissioners, whether by the parties or by the conciliators or arbitrators, in drawing up plans and statements, making surveys or measurements, or in other operations intended to facilitate the disposal of a dispute, the costs of such operations may be decreed and charged to the parties).

14. A member, who as above brings his claim before the association, shall pay at the time of making his claim, such sum as may be necessary for covering the cost of correspondence; account shall be rendered to him of the expenditure.

15. Due respect must be paid to the decisions of conciliators or arbitrators. A member who in this matter does not behave with due propriety will be liable, for the future, to be deprived of the assistance of the Board of Conciliation and Advice, and may even be removed from the association. The Board of Directors may adjudge one or other of the above penalties on the report of the Board of Conciliation when such Board has been specially charged to enquire into allegations made against a member, both the Board and the member being heard on the subject.

ARTICLES OF THE ASSOCIATION OF VINE-DRESSERS OF CHATEAURENAULT (INDRE-ET-LOIRE).*

1. The object of the society is to assist with labour vine-dressers who work either for themselves or for proprietors in case of such sickness or accident as prevents them from working at their vines.

The labour contributed by the members shall be gratuitous, and shall be for the benefit of the members assisted, who shall draw their wages (that is, if they are labourers) as if they had themselves done the work.

(Certain classes of work, pruning, digging and pitch-forking, &c., are alone to be contributed, not the tying up, &c., of the vines.)

Each labour day shall consist of eight hours; a single "corvée" shall consist of one day at most.†

The maximum assistance to be granted in any one year to any one member is as follows:—5⅝ acres (2¼ hectares) of vineyard entirely dressed with the spade; 8½ acres (3½ hectares) cultivated with the plough, and 10 acres (4 hectares) cultivated with the iron plough.

Aid shall only be granted from 1st December to 15th July, and only in case of misfortune occurring during such period.

2. Hindrance from work for four or five days shall not give claim to more than a single corvée, but in case of longer sickness or hindrance, the society shall grant corvées up to two-thirds of the period of inability. If the nature of the season requires it, the Board may decide to grant even a larger number of days of labour.

3. Should a member die, the society will carry on work in his vineyard ‡; wages due to him (by a proprietor) for such work shall be paid over to his widow or orphans, or shall be retained by the society in default of such heirs.

4. The society will not come to the aid of members whose illness are the result of intemperance or debauchery, nor will the society assist in cases of mere stoppage of work.

5. Members shall be active (or sharing) members and honorary members. Active members shall be actual vine dressers; honorary members may be owners, persons connected with the wine trade and others.

6. (The Board shall consist of ten members, part honorary, part active; honorary members have no vote.)

7. The Board shall organize the active members (workers) by sections and shall, if necessary, appoint overseers (surveillants) to such sections so that work may be carried out by due rotation and in an equitable manner.

8. (Omitted.)

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* This is a very peculiar association, which numbered about 200 members in 1889: it is strictly a mutual aid society, the members of which assist sick, &c., members by contributions in actual labour. The idea of the "corvée" or "prestation on nature" is common in Europe, and is not viewed with that sentimental hostility with which it is unnecessarily regarded elsewhere. *See* note to "Associations Syndicales" under the head of "Land Improvement Banks." The entry of these rules is not strictly within the limits of this study, but serves to give an idea of the usefulness of such associations in saving members from indebtedness and ruin by mutual aid in labour instead of by cash loans or credit.

† That is, apparently, no member shall be called on to give more than one day at a time, or for the benefit of one member. The word corvée may be translated 'unit of labour.'

‡ That is, his own vineyard or the one which he cultivates or in which he is employed.

9. Members hindered from work must inform the overseer of their section who shall communicate with the Board, on whose order the sick member shall be visited and reported on. The Board shall determine the aid to be given.

10. The members of the Board must see that the work is done properly. The society shall be held responsible for bad work, and members guilty of bad work may be expelled from the society.

11. (Omitted.)

12. When a corvée is required the commissioner (a member of the Board) will notify the syndic (another member) or overseer of the section, three days before the proposed date of corvée under penalty of fine; that officer will, in turn, warn the members required for duty, two days beforehand under similar penalty. The members must state whether they will be able to give their services on the day fixed: in case of inability they may be allowed to do their share the day before, or by fit substitute. If the weather does not permit of execution of the corvée it may be postponed. Members who omit to render the required service shall be fined two francs.

13. Any member, who, on two consecutive occasions, fails without good excuse to respond to the call upon him, may be struck off the list of members and shall not be eligible for re-entry. A decision to this effect shall only be given by the general meeting.

14. Members summoned for service shall be present at sunrise on the appointed day at the required place. Any member who shall be late by one hour or more shall give his reasons, and if these are unsatisfactory shall be fined one franc.

15. (Rules for withdrawal.)

16. (Members who fail without good reason to attend at meetings shall be fined; *cf.* the rules of the Italian Popular banks.)

17. (No religious or political discussion shall be allowed, nor any violent or improper observations, under penalty of a fine.)

18. (There shall be no share capital, but every ordinary member must subscribe two francs, and an honorary member three francs annually for current expenses.)

19. The following persons shall not be admitted as members: (1) persons of improper life and morals; (2) persons who have been expelled from the society; (3) members who have done bad work (section 10); (4) hired servants who may not be considered eligible by the general meeting; (5) vinedressers of less than 17 years and more than 50 years of age.

20. (Omitted.)

21. (Members of more than 60 years of age may receive only limited benefits in case of illness and may be exempted wholly or partially from rendering service.)

22 and 23. (Omitted.)

24. These articles and any modifications thereof shall be submitted for the approval of the prefect (Collector) of Indre-et-Loire.

ARTICLES OF THE IRISH AGRICULTURAL ORGANIZATION SOCIETY (LIMITED).*

1. This society shall be called the "Irish Agricultural Organization Society, Limited."

2. The object of the society shall be to improve the condition of the agricultural population of Ireland by teaching the principles and methods of co-operation as applicable to farming and the allied industries, to promote industrial organization for any purposes which may appear to be beneficial, and generally to counsel and advise those engaged in agricultural pursuits. The society shall have power to do all things expedient for accomplishing all or any of such objects, including the carrying on of the occupation of accountants, publishers, commercial and general advisers.

5. The members of this society shall consist of such individuals, co-operative societies, or other corporate bodies as may be admitted by the Committee of Management of the Society for the time being (which until the first ordinary General Meeting of the Society its held after its registration shall be the seven members signing these rules). Application for admission shall be made only in the form prescribed by the rules of the society.

7. Every member shall hold one share in the society, and not more than 200 shares (each share is £1).

8. No share shall carry interest, or confer any right to dividend. Any profits earned shall be used for the purposes of the society.

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* The 46 articles are mostly of an ordinary description and give no idea of the work or methods of the society. For an account of its objects and *modus operandi* see the introductory article to agricultural associations *supra*. Hence only one or two of the articles are here printed. The society is based upon and registered under the "Industrial and Provident Societies Act," by the provisions of which it is accordingly guided (*see* the Act as printed elsewhere in this volume).

ARTICLES OF A CO-OPERATIVE SOCIETY (ITALY) FOR THE ACQUISITION OF RURAL NECESSITIES AND THEIR USE IN COMMON, FOR THE JOINT SALE OF PRODUCE, &c.*

1. (Name, &c., of the association.)
2. The association may adopt one or more of the following objects :—

(*a*) the acquisition on its own account or for others † and the distribution to its members or to agriculturists ‡ in general, of goods, produce, implements, machines, live or dead stock, required for agriculture or for consumption by agriculturists ;
(*b*) the sale whether foı the common account or for third parties of agricultural produce whether of members or of agriculturists generally ;
(*c*) the opening of suitable places for the sale of agricultural produce ;
(*d*) the establishment of depôts, shops or canteens for the purchase and sale of agricultural produce ;
(*e*) partnership with other societies or persons for the sale or exportation of agricultural produce ;
(*f*) the purchase of machines, implements, &c., to be lent or hired out ;
(*g*) the establishment of factories or workshops for working up agricultural produce § ;
(*h*) the facilitation of agricultural credit among its members ;
(*i*) the manufacture on account of members or of third parties, of goods and products required in agriculture and allied industries ;
(*j*) the making of tests, analyses, and experiments, and the establishment of courses of study and schools in the interests of agriculture ;
(*k*) agricultural insurance within the district.

3. The association may adopt other subsidiary objects directed towards the improvement and well-being of agriculture and the agricultural classes. For each object, principal or subsidiary, a separate fund with separate accounts shall be maintained.

The directors shall determine whether and to what extent non-members may share in the operations of the society.

4. (The association may establish branches which shall be constituted with the view of subsequent independence ; agencies may also be appointed.)

Capital.

5. The capital shall consist (*a*) of the shares subscribed for by members, each share being of the value of £1 ; (*b*) of the reserve ; (*c*) of any special funds established for particular objects.

6. The amount of the capital and number of shares shall be unlimited. Shares shall be issued in separate series of 500 each. The directors shall, subject to discussion at the general meeting, determine the issue, price, and mode of payment of each series.

7. On each share shall be paid an entrance fee of 5*d*.

The directors may, in order to develop the work of the society, borrow funds which may, by vote of the general meeting, be secured by a special charge upon the own capital of the society.

The directors may issue interest bearing bonds of fixed term, and may accept deposits whether savings or on account current.

8. The directors may invest the funds of the society in State or State guaranteed paper. Not more than 10 per cent. of the share capital and 20 per cent. of the reserve may be invested in shares of co-operative societies having similar objects.

Members and shares.

9. Candidates for admission must apply in writing to the directors, declaring therein that they will be bound by the articles, rules, and resolutions of the association. The good faith of each candidate must be vouched for by two members who must countersign the application.

10. Co-operative and friendly societies and corporate bodies may be registered as though members, and enjoy the privileges of such, but their delegates cannot be appointed to any office, in the society.

Members shall consist solely of the proprietors of farms, tenant farmers and cultivators, within the district, save only such societies as become members.

Persons under interdict, incapables, and bankrupts, may not be admitted as members, nor can they obtain shares by transfer except under judicial order ; any shares so obtained must be disposed of as in section 13.

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* These articles are the model articles proposed in Italy for agricultural associations such as those established in France under the law of 1884, or in Ireland under the " Industrial and Provident Societies' Act ;" *see* introductory note to " Agricultural Associations " in this volume.

† This is a departure from strict co-operation ; societies usually recognize and deal with their own members and no others : to obtain the benefits of the society a man must usually become a member. But as these associations do not limit the sale-price of goods supplied, to the prime cost *plus* actual expenses, it may be intended that goods should be sold at a profit ; hence outsiders are allowed to purchase so as to increase profits. But no rule is entered on this point, or as regards commissions on business done for outsiders.

‡ Presumably the word agriculturist may be liberally interpreted so as to include those connected with agriculture or with rural industries dependent on or supplementary to agriculture.

§ *e.g.*, Co-operative dairies for making butter, cheese, &c.

11. [The directors decide regarding admissions, with appeal to the arbitration committee (probiviri) : an admitted member must sign the register as required by the law.]

12. (Grants the usual rights to members.)

13. (No member may have shares beyond the value of £200 : any excess due to him by succession or court decree must be disposed of by him within two years ; failing such disposal, directors may suspend the payment of interest, and sell the surplus shares for the benefit of the holder.)

14. Directors shall expel any member who may have obliged the society to go to law with him for the fulfilment of his obligations, or who has been declared incapable of holding public office, or who has been sentenced to rigorous imprisonment or simple imprisonment for not less than three years, or who has been found guilty of corruption, forgery, theft or fraud, or who has become incapacitated as under article 10, or who has committed any act deemed by the directors to be dishonourable. Directors may also expel any member who is in arrears without good cause for three successive instalments of his subscription, or who in any way disturbs progress or causes loss.

Appeal lies to the arbitration committee. Members expelled are entitled to the value of their shares.

15. (In case of the death of a member, his heir must sell the shares unless he is himself a member or candidate for admission.)

16. Shares are personal and cannot be transfered, pledged or charged without the consent of the directors. But they are held to be charged in favour of the society for all obligations of a member towards the society: each share shall be endorsed to this effect.

17. (The society may sell the shares of a member who is in default as regards the society.)

18. (Shares to bear interest : they may be paid off if the assets permit.)

19. (Omitted.)

Balance-sheet, profits, savings and reserve.

20. (Contents of the balance-sheet.)

21. Profits shall be divided as follows :—5 per cent. to the reserve ; 10 per cent. as depreciation on goods and plant and 5 per cent. on immovables ; so much, if available, as shall allow a 6 per cent. dividend on the shares so long as the reserve shall not be equal to the paid up capital, and 8 per cent. afterwards ; 5 per cent. shall be allotted for the promotion of thrift and co-operation in general and for promoting thrift among the staff of the society ; half of the remainder shall go to the reserve and half shall be credited as savings to the members in proportion to the amount of their dealings with the society *; the amount thus credited to members shall take the form of shares until the maximum share-value shall have been reached ; thereafter of cash, or of interest bearing bonds, or of shares of other co-operative societies working for the benefit of agriculture and rural property.

No dividend shall exceed 8 per cent.

22. The reserve shall consist (*a*) of the items mentioned in article 21 ; (*b*) of the entrance fees ; (*c*) of any premium upon the issue of shares ; (*d*) of all receipts and donations, and of any increment in the value of securities or property owned by the society.

Authorities.

23. The authorities of the society are (1) the general meeting ; (2) the board of directors ; (3) the manager with the necessary staff ; (4) the committee of supervision (sindaci) ; (5) the committee of arbitration (probiviri).

(Articles 24 to 42 on the above authorities do not require translation, but article 33 is as follows :—

The duties of directors shall be honorary (performed gratuitously—sono gratuite), but the general meeting may allow an annual grant to not more than three (out of the nine) directors in cases where special duties have been assigned to them).

43. The committee of supervision shall consist of five members, viz., three working and two supplementary, who must be elected from among the members. Their duties will be honorary (gratuite).

The committee will see that the articles, rules and resolutions are strictly observed, and will also carry out all the duties assigned to such committees by section 184 of the Code of Commerce.†

They may do duty by weekly turns under rules to be established in the business regulations of the society.

They may not be related to the directors within the fourth degree of consanguinity or affinity.

44. The committee of arbitration consists of three members elected by the general meeting ; they shall hold office for three years, be re-eligible, and shall not be entitled to any remuneration.

The committee will decide without appeal all disputes between the society and members relative to the interpretation of the present articles, and on such matters as shall be referred to them by special rules or resolutions. Also any dispute between members and the executive as regards transactions with the society when both parties mutually submit the case for formal arbitration.

45. The directors and manager must furnish the committee with all requisite information.

The committee may act also as conciliators.

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* This last is a well-known rule in co-operative distribution societies, beginning with the 'Rochdale Pioneers.'

† *See* for this and other matters translation of the sections relating to these committees elsewhere in this volume.

LAW RELATING TO LAND IMPROVEMENT ASSOCIATIONS (ASSOCIATIONS SYNDICALES), FRANCE.*

1. The object of syndical associations of proprietors shall be the execution and maintenance of the following works:—

(1) protection against floods;
(2) the cleansing, deepening and improvement of non-navigable water channels and drainage works;
(3) the drainage of marshes;
(4) the digging of salt-water channels from the sea to salt marshes;
(5) the hygienic improvement of damp and unhealthy localities;
(6) the sanitary improvement of towns, villages, and hamlets;
(7) the opening, widening, &c., of public streets and other public urban and village improvements;
(8) irrigation and the reclamation of low-lying lands;
(9) drainage;
(10) roads and all other classes of agricultural improvoment of a collective character.

2. These associations are either free or authorized.

3. They appear in Courts by their syndics, and may acquire, sell, and otherwise dispose of property.

5—8. (Deal with free associations which have no special privileges, and cannot enjoy the powers entered in section 3 unless their formation has been duly notified in the local gazette. They may be changed into authorized associations.)

9. Proprietors interested in works mentioned in the first six sub-sections of section 1 may, by a decree of the prefect (Collector), form authorized associations either upon their own initiative or on that of the mayor or prefect. Proprietors interested in works mentioned in the last four sub-sections of section 1 may similarly unite when the work has been recognized by Government order as one of public utility: in these latter cases no enterprise can be undertaken without previous sanction from the prefect which will not be granted until such amount as may be needed by way of compensation to parties affected, has been deposited, and guarantees given by the association that the work will be carried out and all costs and damages paid.

10. (The prefect shall cause enquiry to be made regarding the plans and methods of the proposed association: a general meeting of the proprietors interested is to be held and written consent of such as agree to the proposals shall be taken. The prefect shall not authorize any association unless two-thirds—or in cases 6 to 10 of section 1, three-fourths—of the proprietors holding from one-half to three-fourths of the land affected, agree to join the association. Those who do not join the association must, within one month, give notice in writing to the prefect that they intend to hand over their lands which lie within the sphere of operation, upon payment of proper compensation to be settled by the usual laws.)

15. The subscriptions of or levies from the members shall be collected upon a list drawn up by the syndics of the association, approved and given authority by the prefect. They shall be recoverable as though direct State taxes.

16. Disputes regarding the area of operation, the division of the lands into classes, the appointment and collection of the quotas of the expenses and the execution of the work, shall be settled by the prefect's council, with appeal to Government.

17. No proprietor who has become a member shall, after the expiry of four months from the date of issue of the first list of quotas, dispute his position as member or the validity of the association.

19. Disputes as to easements lawfully arising from the operations of the association shall be disposed of (by the Cantonal juge de paix, in the first instance).

23. When an association is granted a subvention by the State, by the district, by the commune, or by a Chamber of Commerce, the respective authorities shall have the right of nominating syndics in the proportion which the subvention bears to the total capital of the association.

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* Only a few sections will be translated, with a view of showing the object of such associations, the mode of their formation, and the privileges granted to them. Their name is derived from the fact that their affairs are managed by Trustees or Managers (Syndics). Their main object is the improvement of the land, not merely agriculturally, but hygienically, by irrigation, drainage, plantation and the like.

The current law is that of 21st June 1865, as modified by that of 22nd December 1888.

The "Crédit Foncier" is expressly authorized to lend funds to such associations, and it is probably through them, as in Germany, that many small peasants are affected by land banks: the banks lend to the associations on the joint credit of the members, who individually benefit by the common project financed by the bank.

CHAPTER V.—SAVINGS BANKS.

LAW OF SAVINGS BANKS, GREAT BRITAIN AND IRELAND.

26 & 27 Vict., Cap. 87 (1863).*

* * * * *

2. And whereas it is expedient to give protection to such savings banks already established as aforesaid and the funds thereof, and to afford encouragement to the formation and establishment of like institutions: be it therefore enacted, that if any number of persons have formed or shall form any society in any part of the United Kingdom of Great Britain and Ireland for the purpose of establishing and maintaining any institution in the nature of a bank to receive deposits of money for the benefit of the persons depositing the same, to accumulate the produce of so much thereof as shall not be required by the depositors, their executors or administrators, at compound interest, and to return the whole or any part of such deposit and the produce thereof to the depositors, their executors or administrators (deducting out of such produce so much as shall be required for the necessary expenses attending the management of such institution), but deriving no benefit whatsoever from any such deposit or the produce thereof, and shall be desirous of having the benefit of the provisions of this Act, such persons shall cause the rules and regulations established or to be established for the management of such institution to be entered, deposited, and filed in manner hereinafter directed, and thereupon shall be deemed to be entitled to and shall have the benefit of the provisions contained in this Act.

* * * * *

6. No savings bank, subject to the proviso hereinafter contained with respect to the branch offices or local receivers of any savings bank, shall have the benefit of this Act unless in the rules and regulations for the management thereof it shall be expressly provided—

(1) That no person or persons being treasurer, trustee, or manager of such savings bank, or having any control in the management thereof, shall derive any benefit from any deposit made in such savings bank, save only and except such salaries and allowances or other necessary expenses as shall according to such rules and regulations be provided for the charges of managing such savings bank, and for remuneration to officers employed in the management thereof, exclusive of the treasurer or treasurers, trustee or trustees, manager or managers, or other persons having direction in the management of such savings bank, who shall not directly or indirectly have any salary, allowance, profit, or benefit whatsoever therefrom beyond their actual expenses for the purposes of such savings bank:

(2) That not less than two persons, being either trustees, managers, or paid officers appointed for that specific purpose, and where two only, except in the case of savings banks which are open for more than six hours in every week, one such person to be a trustee or manager, be present on all occasions of public business, and be parties to every transaction of deposit and repayment so as to form at least a double check on every such transaction with depositors:

(3) That the depositors' pass-books shall be compared with the ledger on every transaction of repayment, and on its first production at the bank after each twentieth day of November:

(4) That every depositor in a savings bank established under this Act shall once at least in every year cause his deposit book to be produced at the office of the said savings bank for the purpose of being examined:

(5) That no money be received from or paid to depositors except at the office or branch offices where the business of the savings bank is carried on under the authority of the board of managers, and during the usual hours for public business.

(6) That a public accountant or one or more auditors be appointed by the trustees and managers, but not out of their own body, to examine the books of the bank, and to report in writing to the board or committee of management the result of such audit, not less than once in every half-year, also to examine an extracted list of the depositors' balances, made up every year to the twentieth day of November, and to certify as to the correct amount of the liabilities and assets of the bank:

(7) That a book containing such extracted list of every depositor's balance, omitting the name, but giving the distinctive number and separate amount of each, and showing the aggregate number and amount of the whole checked and certified by such public accountant or auditors, be open at any time during the hours of public business for the inspection of every depositor as respects his own account, to examine his own deposit book therewith, and the general results of the same:

(8) That the trustees and managers or committee of management shall hold meetings once at least in every half-year, and shall keep minutes of their proceedings in a separate book provided for that purpose:

(9) Provided that where savings banks are established with agents or local receivers elsewhere than at the head office, the rules shall be provided for the due receipt of and accounting for all monies by such agents or local receivers on account of such savings banks respectively, and also for the presence of a second party in every transaction when money is paid or received, and also for the periodical examination of the depositors' books with the ledger once at least every year.

(10) The trustees and managers of every savings bank shall transmit weekly returns to the commissioners for the reduction of the national debt, in such form and giving such particulars as the said commissioners may direct, showing the amounts of the week's transactions of such savings bank, and the amount of the cash balances remaining in the hands of the treasurer, or any other person on account of such savings bank.

* * * * *

8. (Treasurers and other officers entrusted with the receipt or custody of money to give security.)

* * * * *

* Only a few sections or parts of sections have been extracted and printed.

11. No trustee or manager of any savings bank (subject to the provision hereinafter contained in respect to savings banks in Ireland) shall be personally liable, except—

(1) For monies actually received by him on account of or for the use of such savings bank, and not paid over and disposed of in the manner directed by the rules of the savings bank:

(2) For neglect or omission in complying with the rules and regulations required by this Act to be adopted as hereinbefore is provided in the maintenance of checks, the audit and examination of accounts, the holding of meetings and keeping minutes of proceedings thereat:

(3) And also for neglect or omission in taking security from officers as is hereinbefore provided.

12. (Trustees or managers in Ireland may, by declaration in writing deposited with the national debt commissioners, limit their responsibility to a particular amount not being less than £100. But such limitation shall not extend to sums actually received by him on account of the bank, for all of which a trustee is personally liable.)

13. (Treasurer, trustees, &c., and their heirs or executors, &c., to account for and deliver up all effects of the bank in their custody whenever required by the other trustees.)

14. If any person already appointed or who may hereafter be appointed to any office in a savings bank, and being intrusted with the keeping of the accounts, or having in his hands or possession by virtue of his said office or employment any monies or effects belonging to such savings bank, or any deeds or securities relating to the same, shall die, or become a bankrupt or insolvent, or have any execution or attachment or other process issued against his lands, goods, chattels, or effects, or make any assignment thereof for the benefit of his creditors, his executors, administrators, or assignees, or other persons having legal right, or the sheriff or other officer executing such process, shall, within forty days after demand made by two of the trustees of the said savings bank as aforesaid, deliver and pay over all monies and other things belonging to such savings bank to such person as the said trustees shall appoint, and shall pay out of the estates, assets, or effects of such person all sums of money remaining due, which such person received by virtue of his said office or employment, before any other of his debts are paid or satisfied, or before the money directed to be levied by such process as aforesaid is paid over to the party issuing such process, and all such assets, lands, goods, chattels, estates, and effects shall be bound to the payment and discharge thereof accordingly.

* * * * *

16. (Trustees may receive money from depositors to be applied or invested *otherwise* than as mere deposits in the savings bank. This should be provided for in the articles of the bank.*)

* * * * *

19. The said commissioners shall cause all the monies paid into the banks of England and Ireland respectively, and placed to their account in pursuance of the provisions of this Act, to be invested from time to time in their names, and to be carried to the account hereinbefore provided, under such regulations as the said commissioners shall direct, in the purchase of bank annuities or exchequer bills or Parliamentary securities of whatsoever kind created or issued, or which may hereafter be created or issued, under the authority of any Act or Acts of Parliament for the interest on which provision is made by Parliament, or any stock or debenture or other securities expressly guaranteed by authority of Parliament, and the interest which shall from time to time arise and become due thereon shall in like manner be invested in the purchase of such Government annuities or exchequer bills or securities aforesaid.†

* * * * *

33. It shall be lawful for the trustees or treasurers of any friendly society legally enrolled or certified in the manner required by the Acts in force relating to friendly societies to invest any sum of money the property of such society, without restriction as to amount, into the funds of any savings bank established under the provisions of the said hereby repealed Acts or of this Act, and which shall be willing to receive the same, under such terms and conditions as shall be specially provided for that purpose by the rules, orders, and regulations of such savings bank.

34. The receipt of the treasurer, trustee, or other officer for the time being of any such charitable or provident institution or society, penny savings bank, or friendly society, for any money paid according to the requisition of such treasurer, trustee, or other officer apparently authorised to require such

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* This power has now been limited by section 10 of the Act of 1891, which is as follows :—

10. (Enacts the following restrictions to section 16 of the principal Act), viz.—

(*a*) (an investor must have deposits of £50 in the bank);

(*b*) (the total amount to be invested for any one depositor shall not exceed £500) ;

(*c*) (the money received for investment shall not be invested in any manner not for the time being authorized by law in the case of investment by trustees, and shall not be invested on mortgage of land or any interest in land ;

(*d*) (the accounts of the bank shall be kept so as to distinguish between the receipts and expenditure on account of special investments, and the receipts and expenditure on account of the general business of the bank ;

(*e*) (the assets of the bank in respect of ordinary deposits shall not be chargeable with any part of the expenditure on account of special investments, and shall not be liable for any loss or deficiency in respect of special investments :

(*f*) (the security required by section 8 of the Trustee Savings Banks Act, 1863, as amended by this Act, shall comprise separate security in respect of the amount received on account of special investments:

(*g*) (the annual statement required by section 55 of the Trustee Savings Bank Act, 1863, shall contain, or be accompanied by, such particulars with respect to the special investments of the bank as the national debt commissioners direct :

(*h*) (the rules of the bank shall provide to the satisfaction of the inspection committee for the audit, examination, and publication of the investment accounts for the safe custody of the securities held by the bank on account of special investments, and the security to be given by officers of the bank in respect of the amount received on such account:

(*i*) (the power to make special investments shall not be exercised by any bank unless the bank has exercised the power before the first day of June one thousand eight-hundred and ninety-one. (In other words the power of making such investments is forbidden to anynewbanks.)

† This section limits the investment by trustees of savings deposits ; only Government securities are allowable. the French law is similar, and these two countries and their dependencies stand practically alone in this limitation.

payment, shall be a sufficient discharge for the same, and the savings bank paying such money, and the trustees, managers, and officers thereof, shall not be responsible for any misapplication or for want of any authority of the person or persons requiring or receiving payment of such money.

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48. If any dispute shall arise between the trustees and managers of any savings bank and any individual depositor therein, or any executor, administrator, next-of-kin, or creditor or assignee of any depositor who may become bankrupt or insolvent, or any person claiming to be such executor, administrator, next-of-kin, creditor, or assignee, or to be entitled to any money deposited in such savings bank, then and in every such case the matter in dispute shall be referred in writing to the barrister-at-law * appointed under the said hereby repealed Acts or this Act, who shall have power to proceed *ex parte* on notice in writing to the said trustees or managers left or sent through the post-office by the said barrister to the office of the said savings bank, and whatever award, order, or determination shall be made by the said barrister shall be binding and conclusive on all parties, and shall be final to all intents and purposes, without any appeal.

49. On any such reference it shall be lawful for the said barrister and he is hereby authorised to inspect any book or books belonging to the said savings bank relating to the matter in dispute, and to administer an oath to any witness appearing before him, or to take the affirmation in cases where affirmation is allowed by law instead of oath ; and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall be prosecuted and punished accordingly.

50. (All powers of attorney and receipts relating to deposits, and all instruments or documents whatever made or issued *in pursuance of the Act*, are exempt from stamp duty.)

THE SAVINGS BANKS AMENDMENT ACT.

54 & 55 Vict., Cap. 21 (1891).†

*   *   *   *   *

2. (1) There shall be established an inspection committee of trustee savings banks.

(2) A paid officer of a trustee savings bank shall not be eligible to be a member of the committee.

(3) The committee may, with the approval of the national debt commissioners, modify a scheme framed under this section.

(4) The committee may, with the approval of the Treasury, appoint such officers as may appear to be required for the execution of the duties of the committee under this Act.

(5) The members of the committee shall be entitled to such remuneration by way of fees or otherwise as may be approved by the Treasury.

(6) Every scheme made in pursuance of this section and every modification thereof shall be laid before both Houses of Parliament.

3. (1) The inspection committee may appoint persons to inspect the books and accounts of trustee savings banks, and to examine and ascertain and report to the committee from time to time with respect to each bank, whether the bank has complied with the requirements of the Acts and rules relating to the bank as to the security to be taken from officers, the accounts of the bank and the conduct of its business, and whether any portion of the expenditure is excessive or unnecessary ; and every trustee savings bank shall give all due facilities for enabling any such inspection or examination to be made.

(2) If on the report of any such person it appears to the committee that any trustee savings bank has made default in giving such facilities or complying with any of the requirements aforesaid, or that any portion of the expenditure of the bank is excessive or unnecessary, the committee shall call upon the bank to remedy the default, or, as the case may be, to reduce the expenditure, within a specified time, and if the default is not remedied or the expenditure is not reduced within that time, the committee shall report the matter to the national debt commissioners.

(3) Thereupon the national debt commissioners may in their discretion either close the account of the trustees of the bank, in which case the provisions of section 55 of the Trustee Savings Banks Act, 1863, shall apply as in the case of neglect or refusal to obey any orders or directions given by the commissioners, or report the matter to the Treasury with a view of action being taken under section 2 of the Trustee Savings Banks Act, 1887, or adopt both of these courses.

(4) The trustees of every trustee savings bank shall, on the requisition of the committee, supply the committee with a copy of the pass-book in use in the bank, of the annual general statement of the accounts of the bank, and of the rules of the bank, and of any amendments thereof.

(5) If in the opinion of the committee the rules of any such bank are insufficient for the purpose of maintaining an efficient audit, the bank shall with all convenient speed make such additional rules as may, in the opinion of the committee, be required for the purpose.

(6) If the bank do not, within a time specified by the committee from the date of being required to make any such rules, comply with the requirement, the committee may make such rules, and shall submit the rules so made to the Registrar of Friendly societies, to be certified by him ; and, when so certified, they shall be binding on the trustees.

(7) The committee shall annually report their proceedings under this Act to the national debt commissioners, and this report shall be laid before Parliament.

(8) The committee may, with the approval of the national debt commissioners, make rules for regulating the duties of persons appointed by the committee under this section.

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* The barrister-at-law is now the Chief Registrar of Friendly, &c., Societies.   † Only partially printed.

4. (The expenses of the committee are to be paid up to a certain amount from the surplus in the hands of the national debt commissioners, and any further amount by contributions from the several savings banks.)

* * * * *

7. (The office of trustee *ipso facto* to become vacant if the trustee is continuously absent from duty for 12 months.)

8. The annual statement required by section 55 of the Trustee Savings Banks Act, 1863, to be made by the trustees and managers of every trustee savings bank shall be in such form and contain or be accompanied by such particulars as the national debt commissioners direct. A similar statement shall be sent to the inspection committee each year at the same time.

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13. Nothing in section 40 of the Bankruptcy Act, 1883, shall affect the priority given by section 14 of the Trustee Savings Banks Act, 1863, to the debts mentioned in that section.

THE BANKING LAW OF THE STATE OF NEW YORK.*

Article III, Savings Banks.

Section.
100. Incorporation.
101. Notice of intention to organize.
102. Filing of certificate by superintendent.
103. Examination by superintendent.
104. Certificate of authorization.
105. When persons named in certificate become a corporation.
106. Must begin business within one year.
107. Trustees and their powers.
108. By-laws.
109. Meeting of trustees; quorum.
110. Vacancies.
111. Security may be required and salaries fixed.
112. Dividends, compensation and loans to trustees prohibited.
113. Repayment of deposits; regulations; limitation.
114. Deposits of minors, and trust deposits.
115. Wife witness against husband; claimants may be interpleaded
116. In what securities deposits may be invested.
117. Limitation as to real property.
118. Available fund for current expenses; how loaned.
119. Temporary deposits.
120. Personal security prohibited; loans on bond and mortgage.
121. Mortgaged property to be insured.
122. Restrictions on methods of doing business.
123. Rate of interest; extra dividends.
124. Per cent. of surplus, how determined.
125. Compensation of officers.
126. No other report or inspection required.
127. Proceedings against delinquent corporations.
128. Examination of vouchers and assets by trustees.
129. Expenses to be paid.
130. Debts due savings banks from insolvent banks preferred.
131. Advertisements of unauthorized savings banks prohibited.
132. Charters to be conformed to this chapter.
133. Savings bank voluntarily closed.
134. When dissolution effected.
135. Deposit of unclaimed moneys.

100. *Incorporation.*—(Thirteen residents in a county may form themselves into a savings bank by a certificate (memorandum) of association as trustees; copies to be deposited with the authorities including the superintendent of banks.) †

101. *Notice of intention to organize.*—(Notice must be duly published in the newspapers, and expressly sent to any other savings bank in the country.)

102. *Filing of certificate by superintendent.*—(Superintendent may refuse to file the memorandum if not in proper form or not duly notified : otherwise he shall "file it for examination.")

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* This law forms Article III of Chapter XXXVII of the General Laws of the State of New York. This chapter known as 'the Banking law' of the State, was entirely revised and consolidated in 1892, and represents, therefore, a very modern conception of banking law in a great industrial and commercial State.

The chapter contains eight articles, viz., general provisions, banks (ordinary), savings banks, trust companies, building and mutual loan corporations (companies), co-operative loan associations, mortgage, loan, and investment corporations, and safe deposit companies.

All classes of banking, &c., association mentioned in Articles 2 to 8 are subject to the provisions of Article 1 : hence savings and all other banking institutions are under the supervision of the 'Superintendent of banks.' Article 1 will be found below in Chapter VII. The savings banks law of New York must be read with that article.

The New York savings banks under this law are those known as 'Trustee savings banks', and they have, within certain limits laid down in the law, the right of free disposal of their funds.

The sections are not always excerpted in full; some are merely abstracted, others omitted.

† *See* foot-note to the heading of this law and Article I printed in Chapter VII. Miscellaneous.

103. *Examination by superintendent.*—The superintendent shall thereupon ascertain from the best sources of information at his command:

(1) Whether greater convenience of access to a savings bank will be afforded to any considerable number of depositors by opening a savings bank in the place designated in the certificate.

(2) Whether the density of the population in the neighbourhood designated for such savings bank, and in the surrounding country, affords a reasonable promise of adequate support to the enterprise.

(3) Whether the responsibility, character and general fitness for the discharge of the duties appertaining to such a trust of the persons named in the certificate, are such as to command the confidence of the community in which such savings bank is proposed to be located.

104. *Certificate of authorization.*—(The superintendent will, if satisfied on the matters mentioned in section 103, authorize the starting of the bank, and will send a copy of his authorization to the county clerk: if he refuses authorization, he will similarly give notice to the county clerk.)

105. *When trustees become a corporation.*—(On receipt of the superintendent's authorization the proposed trustees shall be deemed a corporation and may transact the business of a savings bank: the name and address of each of the officers of such bank must first be sent to the superintendent.)

106. (Omitted.)

107. *Trustees.*—(There must be at least thirteen trustees, all residents of the State.)

108 and 109. (Omitted.)

110. *Vacancies among trustees.*—(A trustee ceases, *ipso facto*, to be such, if he becomes trustee, officer, or employé of any other savings bank, or if he borrows, directly or indirectly any of the funds of his savings bank, or if he becomes surety for any loan from such bank, or if he neglects, without permission, the duties of trustee for six successive months.)

111. (Omitted.)

112. *Dividends, compensation and loans to trustees prohibited.*—No trustee of any such corporation shall have any interest, direct or indirect, in the gains or profits thereof, nor as such, directly or indirectly, receive any pay or emolument for his services, except as hereinafter provided; * and no trustee or officer of any such corporation shall directly or indirectly, for himself or as an agent or partner of others, borrow any of its funds or deposits, or in any manner use the same except to make such current and necessary payments as are authorized by the board of trustees; nor shall any trustee or officer of any such corporation become an indorser or surety, or become in any manner an obligor, for moneys loaned by or borrowed of such corporation.

113 to 115. (Omitted.)

116. † *In what securities deposits may be invested.*—(Deposits may be invested in stock or other interest bearing paper of the United States of America, in paper of the New York State, in paper of any other State of the United States of America which for ten years has not made default in payment of principal or interest of its debts, in certain municipal and local board stock, in bonds and mortgages on unincumbered real property situated in this State, worth at least twice the amount loaned thereon. Not more than sixty-five per cent. of the whole amount of deposits shall be so loaned or invested. If the loan is on unimproved and unproductive real property, the amount loaned thereon shall not be more than forty per cent. of its actual value. No investment in any bond and mortgage shall be made by any savings bank, except upon the report of a committee of its trustees charged with the duty of investigating the same, who shall certify to the value of the premises mortgaged or to be mortgaged according to their best judgment, and such report shall be filed and preserved among the records of the corporation, in real property subject to the provisions of the next section.

117. *Limitation as to real property.*—(A savings bank may only hold real property (1) for business premises up to the value of fifty per cent. of its net surplus; (2) by purchase at sales upon foreclosure of mortgages owned by it, or at judicial sales upon decrees for debts due to it; all property under (2) must be sold within five years unless the superintendent of banks extends the time.‡

118. *Available fund for current expenses how loaned.*—The trustees of every such corporation shall, as soon as practicable, invest the moneys deposited with them in the securities authorized by this article; but for the purpose of meeting current payments and expenses in excess of the receipts, there may be kept an available fund not exceeding ten per cent. of the whole amount of deposits with such corporation, on hand or deposit in any bank in this State organized under any law of this State or of the United States, or with any trust company incorporated by any law of the State; but the sum so deposited in any one bank or trust company shall not exceed twenty-five per cent. of the paid-up capital and surplus of any such bank or company; or such available fund, or any part thereof, may be loaned upon pledge of the securities or any of them named in sub-divisions one, two, three and four of the preceding section but one, but not in excess of ninety per cent. of the cash market value of such securities so pledged. Should any of the securities so held in pledge depreciate in value, after making any loan thereon, the trustees shall require the immediate payment of such loan or of a part thereof, or additional security therefor, so that the amount loaned shall at no time exceed ninety per cent. of the market value of the securities pledged for the same.

119. (Omitted.)

120. *Personal security prohibited loans on bond and mortgage.*—The trustees of any savings bank shall not loan the moneys deposited with them or any part thereof, upon notes, bills of exchange, drafts or

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* *See* section 125 *infra*.

† The provisions of this section distinguish New York savings banks from those of Great Britain and France. Other States of the United States of America, as also Germany, Austria, and Italy, are similarly liberal, in their provisions as regards investments.

‡ The object of this section, which is found in the laws relating to all European land banks, is either to prevent the savings banks from becoming syndicates of land-jobbers or grabbers, or to hinder them from unduly locking-up deposits in property which might not be readily saleable.

any other personal securities whatever. In all cases of loans upon real property, a sufficient bond secured by a mortgage thereon, shall be required of the borrower, and all the expenses of searches, examinations and certificates of title or appraisal of value, and of drawing, perfecting and recording papers, shall be paid by the borrower.

121. (Omitted.)

122. *Restrictions on methods of doing business.*—(No savings bank may trade or engage in ordinary banking business otherwise than as provided in this article, and no payment out may be made except upon production of, and entry in, the depositor's pass-book, save in exceptional and temporary cases such as the loss of such pass-book.)

123. *Rate of interest ; extra dividends.*—The trustees of every such corporation shall regulate the rate of interest or dividends not to exceed five per cent. per annum upon the deposits therewith, in such manner that depositors shall receive, as nearly as may be, all the profits of such corporation, after deducting necessary expenses and reserving such amounts as the trustees may deem expedient as a surplus fund for the security of the depositors, which to the amount of fifteen per centum of its deposits the trustees of any such corporation may gradually accumulate and hold, to meet any contingency or loss in its business from the depreciation of its securities or otherwise. The trustees may classify their depositors according to the character, amount and duration of their dealings with the corporation, and regulate the interest or dividends allowed in such manner that each depositor shall receive the same ratable portion of interest or dividends as all others of his class.

(After the reserve shall have reached fifteen per cent. of the deposits, any further accumulation may be divided, once in three years, as an extra dividend to depositors.)

124. *Value of surplus how determined.*—(In the valuation of assets, all stocks, bonds or mortgages on which there are no arrears of interest for more than six months, shall be estimated at their face value, and real property at not above cost. The superintendent of banks shall determine the value of such stocks, bonds, or mortgages as shall be in arrears of interest for six months or more.)

125. *Compensation of officers.*—The trustees of such corporation acting as officers of the same, whose duties require and receive their regular and faithful attendance at the institution, and the trustees appointed as a committee to examine the vouchers and assets pursuant to section one hundred and twenty-eight of this chapter, or to perform the duties required by sub-division 5 of section 116 of this chapter, may receive such compensation as, in the opinion of a majority of the board of trustees, shall be just and reasonable ; but such majority shall be exclusive of any trustee to whom such compensation shall be voted. Trustees as such shall not be paid for their attendance at meetings of the board.

126. (Omitted.)

127. *Proceedings against delinquent corporations.*—When it shall appear to the superintendent * from an examination made by or reported to him, or from a report made by any such corporation pursuant to the provisions of this chapter, that it has committed any violation of its charter or of law, or is conducting its business and affairs in an unsafe or unauthorized manner, he shall, by an order under his hand and official seal, direct a discontinuance of such illegal and unsafe or unauthorized practices, and strict conformity with the requirements of the law, and with safety and security in its transactions. If any such corporation shall refuse or neglect to make any report required by law, or to comply with any such order, or if it shall appear to the superintendent that it is unsafe or inexpedient for it to continue to transact business, or that any trustee or officer thereof has abused his trust, or been guilty of misconduct or malversation in his official position injurious to the bank or to its depositors, the superintendent shall report the facts in writing to the attorney-general. The attorney-general may thereupon bring an action or institute proceedings for the dissolution of the corporation or for the removal of one or more of its trustees or for the transfer of its corporate powers to other persons, or for the consolidation and merger of the corporation with any other savings bank that may be willing to accept of the trust, or for such other or further relief or correction as the facts reported to him may seem to require.

The court, before which any such action or proceeding shall be instituted, shall have power to grant such orders, and in its discretion from time to time to modify or revoke the same, and to grant such relief and render such judgment as the facts or evidence of the case or the situation of the parties and the interests involved, shall seem to require. If, in such proceedings, an order shall be granted upon notice or without notice restraining such corporation and its officers from paying out or disposing of any moneys or property of or held by it, the superintendent may, and, if directed by the court, shall take temporary possession of all the assets, property and rights of or held by such corporation, and hold possession thereof until the further order of the court.

128. *Examination of vouchers and assets by trustees.*—The trustees of every savings bank, by a committee of not less than three of their number, on or before the first days of January and July in each year, shall thoroughly examine the books, vouchers and assets of such savings bank, and its affairs generally. The statement or schedule of assets and liabilities reported to the superintendent of banks for the first of January and July in each year shall be based upon such examination, and shall be verified by the oath of a majority of the trustees making it ; and the trustees of any savings bank may require such examination at such other times as they shall prescribe. The trustees shall, as often as once in each six months during each year, cause to be taken an accurate balance of their depositors' ledgers, and in their semi-annual report to the superintendent they shall state the fact that such balance has been taken, and the discrepancies, if any, existing between the amount due to depositors, as shown by such balance and the amount so due as shown by the general ledger.

129. (Every savings bank to pay annually five dollars to the treasury for the expenses of the superintendent of banks *other* than those involved in the examination of such banks; any residue of expenses is to be apportioned by the superintendent, and to be in proportion to their assets, by all savings banks having more 100,000 dollars in deposits.

* That is, the official superintendent of banks.

130. *Debts due savings banks from insolvent banks preferred.*—All the property of any bank * or trust company which shall become insolvent, shall, after providing for the payment of its circulating notes, if it has any, be applied by the trustees, assignees or receiver thereof in the first place, to the payment in full of any sum or sums of money deposited therewith by any savings bank, but not to an amount exceeding that authorized to be so deposited by the provisions of this chapter, and subject to any other preference provided for in the charter of any such trust company.

131. *Advertisements of unauthorized savings banks prohibited.*—No bank, banking association, individual banker, firm, association, corporation, person or persons shall advertise or put forth a sign as a savings bank, or in any way solicit or receive deposits as a savings bank. Any bank, banking association, individual banker, firm, association, corporation, person or persons violating this provision shall forfeit to the people of the State for every offence the sum of one hundred dollars for every day such offence shall be continued

132 to 135. (Omitted.)

STATUTES RELATING TO SAVINGS BANKS AND INSTITUTIONS FOR SAVINGS (MASSACHUSETTS).†

Chapter 116.—Commissioners of Savings Banks.

1. The board of commissioners of savings banks shall consist of three commissioners appointed by the governor, with the advice and consent of the council, subject to removal in like manner, each of whom shall be sworn, and shall hold office for the term of three years, unless sooner removed.

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3. The commissioners shall visit once in every year, and as much oftener as they deem expedient every savings bank and institution for savings incorporated by authority of this commonwealth, and when such institutions are connected with a national bank, they shall make such arrangements with the national bank examiner, if possible, that their visits shall be simultaneous. At such visits they shall have free access to the vaults, books and papers, and shall thoroughly inspect and examine all the affairs of each of said corporations, and make such inquiries as may be necessary to ascertain its condition and ability to fulfil all its engagements, and whether it has complied with the provisions of law. They shall preserve in a permanent form a full record of their proceedings, including a statement of the condition of each of them.

4. Either of the commissioners may summon all trustees, officers or agents of any such corporation, and such other witnesses as he thinks proper, in relation to the affairs, transactions and condition of the corporation, and for that purpose may administer oaths; and whoever refuses, without justifiable cause, to appear and testify when thereto required, or obstructs a commissioner in the discharge of his duty, shall be punished by fine not exceeding one thousand dollars, or imprisonment not exceeding one year.

5. Upon the certificate under oath of any five or more officers, trustees, creditors or depositors of any such corporation, setting forth their interest and the reasons for making such examination, directed to the commissioners and requesting them to examine such corporation, they shall forthwith make a full investigation of its affairs in the manner before provided.

6. The commissioners, if upon such examination any such corporation appears to be insolvent, or its condition such as to render its further proceeding hazardous to the public or to those having funds in its custody, shall apply, or, if such corporation appears to have exceeded its powers or failed to comply with any rule, restriction or condition provided by law, they may apply to a justice of the supreme judicial court to issue an injunction restraining such corporation, in whole or in part, from further proceeding with its business until a hearing can be had. Such justice may, with or without previous notice, issue such injunction, and, after a full hearing, may dissolve or modify it or make it perpetual, and may make such orders and decrees according to the course of proceedings in equity to restrain or prohibit the further prosecution of the business of the corporation as may be needful in the premises; and may appoint one or more receivers to take possession of its property and effects, subject to such directions as may from time to time be prescribed by the court or a justice thereof.

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12. The General Court ‡ may make other or further regulations for the government of such corporations, or may take away their corporate powers; and every such corporation and its officers shall be subject to examination by any committee of the General Court appointed for the purpose, who may examine into the doings of the corporation, and shall have free access to its books and vaults. An officer of such corporation, or other person having charge of its books and property, who refuses or neglects to exhibit them to such committee, or who in any way obstructs its examination thereof, shall be punished by fine not exceeding ten thousand dollars, or imprisonment not exceeding three years.

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18. A savings bank or institution for savings incorporated under the provisions of chapter one hundred and sixteen of the Public Statutes shall carry on its usual business at its banking house only, and no deposit shall be received, nor payment on account of deposits be made by such corporation or by any person on its account in any other place than at its banking house; and such banking house shall be kept in the city or town in which such corporation is established; provided, however, that its annual meeting and meetings of its trustees may be held at other places in the city or town where it is located.

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* That is, any *ordinary* bank, or bank of issue, which holds on deposit any funds of a savings bank.

† Only a few sections will be given, to display the ideas regarding savings banks in so advanced a State as Massachusetts in 1893. It will be noticed that, as in New York, savings banks are placed under close supervision while allowed much freedom in the investment of their deposits.

‡ The General Court is the State Assembly, not a judicial court.

Deposits, Loans and Investments.

19. Every such corporation may receive deposits from any person until they amount to one thousand dollars; and may allow interest upon such deposits, and upon the interest accumulated thereon, until the principal, with the accrued interest, amounts to sixteen hundred dollars; and thereafter upon no greater sum than sixteen hundred dollars; but the limitations contained in this section shall not apply to deposits by religious or charitable corporations, or to deposits made by direction of a probate court, by virtue of the sixteenth section of the one hundred and forty-fourth chapter of the Public Statutes.

20. Deposits and the income derived therefrom shall be invested only as follows:—

Firstly, on first mortgages of real estate, situated in this commonwealth, to an amount not to exceed sixty per cent. of the valuation of such real estate: but not exceeding seventy per cent. of the whole amount of deposits shall be so invested; and no loan on mortgage shall be made except upon the report of not less than two members of the board of investment, who shall certify to the value of the premises to be mortgaged, according to their best judgment, and such report shall be filed and preserved with the records of the corporation;

Secondly, in the public funds and in the paper of certain States, towns, &c., which are not indebted to above five (or three) per cent. of the valuation of the property therein as last assessed to the taxes;

Thirdly, in the first debentures of certain first-class railways;

Fourthly, in certain bank stock, but not more than thirty-five per cent. of its total deposits; there are also restrictions as to the amount to be placed in any one bank;

Fifthly, in loans upon the personal notes of the depositors, but not exceeding one-half of the amount of a deposit;

Sixthly, if other investments are not available, then in personal bonds, with personal sureties but not to more than five per cent. of the deposits;

Seventhly, in an office building not exceeding a certain value;

Eighthly, any such corporation may hold real estate acquired by the foreclosure of any mortgage owned by it, or by purchase at sales made under the provisions of any such mortgage or upon judgments for debts due it, or in settlements effected to secure such debts: but all such real estate shall be sold by it within five years after the title thereof is vested in the corporation.

21. No president, treasurer, member of a committee or board of investment, or officer, of such corporation charged with the duty of investing its funds, shall borrow or use any portion thereof, be surety for loans to others, or in any manner, directly or indirectly, be an obligor for money borrowed of the corporation; and if such member or officer becomes the owner of real estate upon which mortgage is held by the corporation, his office shall become vacant at the expiration of sixty days thereafter, unless he has ceased to be the owner thereof, or has caused said mortgage to be discharged. Only one of the persons holding the offices of president, clerk, and treasurer shall, at the same time, be a member of the investing committee.

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24. Every such corporation shall, at the time of making each semi-annual dividend, reserve as a guarantee fund, from the net profits which have accumulated during the six months then next preceding, not less than one-eighth nor more than one-fourth of one per cent. of the whole amount of deposits, until such fund amounts to five per cent. of the whole amount of deposits, which fund shall be, thereafter, maintained and held to meet losses in its business from depreciation of its securities or otherwise.

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Books and Returns.

39. The commissioners may prescribe the manner and form of keeping and auditing the books and accounts of any such corporation.

40. The treasurer of every such corporation shall annually within twenty days after the last business day of October make a report to the commissioners showing accurately the condition thereof at the close of business on said day. The report shall be in such form as the commissioners shall prescribe and shall specify the following particulars, namely, name of corporation and number of corporators; place where located; amount of deposits; amount of each item of other liabilities; public funds, including all United States, State, county, city and town bonds, stating each particular kind, the par value, estimated market value and amount invested in each; loans on public funds, stating amount on each; bank stock, stating par value, estimated market value and amount invested in each; loans on bank stock, stating amount on each; railroad bonds, stating par value, estimated market value and amount invested in each; loans on railroad bonds, stating amount on each; estimated value of real estate, and amount invested therein; loans on mortgage of real estate; loans to counties, cities or towns; loans on personal security; cash on deposit in banks, with the names of such banks and the amount deposited in each; cash on hand; the whole amount of interest or profits received or earned, and the rate and amount of each semi-annual and extra dividend for the previous year; the times for the dividends fixed by the by-laws; the rates of interest received on loans; the total amount of loans bearing each specified rate of interest; the number of outstanding loans which are of an amount not exceeding three thousand dollars each, and the aggregate amount of the same; the number of open accounts; also the number and amount of deposits received; the number and amount of withdrawals; the number of accounts opened, and the number of accounts closed, severally, for the previous year; and the annual expenses of the corporation; all of which shall be certified and sworn to by the treasurer. The president and five or more of the trustees shall certify and make oath, that the report is correct according to their best knowledge and belief.

41. Beginning with the year ending with the last business day of October eighteen hundred and eighty-nine and every fifth year thereafter such reports shall also state the number and amount of deposits of fifty dollars and less, of those exceeding fifty dollars and not more than one hundred dollars, of those exceeding one hundred dollars and not more than two hundred dollars, of those exceeding two hundred dollars and not more than five hundred dollars, of those exceeding five hundred dollars and less than one thousand dollars, of those of one thousand dollars or more; and of those to the credit of women, both adult and minor, guardians, religious and charitable associations, and in trust, respectively, received during the year.

42. The commissioners shall furnish blank forms of reports to every such corporation, and shall prepare annually from such reports, and communicate to the General Court on or before the first Wednesday in January, a statement of the condition of each corporation from which a report has been received for the preceding year, and shall include therein a statement of the affairs of such corporations in the hands of receivers, and shall make such suggestions as they may deem expedient relative to the general conduct and condition of each of the corporations visited by them.*

ITALIAN LAW OF THE 15TH JULY 1888. †

1. (All savings banks other than Government banks must come under the present law.)

2. Savings banks formed by groups of persons must be constituted by a formal deed of association.

The deed of association for savings banks started by corporate bodies ‡ or with their aid, shall settle (1) the share to be taken by such body in the appointment of directors (for the savings bank), and in the inspection of the accounts; (2) the business rules of the bank.

The deed of association of savings banks formed by groups of individuals shall settle (1) the number, the mode of admission, the replacement, and the rights of members and of their meetings; (2) the mode of election and the number of the directors; (3) the duties of the directors.

The articles shall be attached to the deed of the association. These must contain the rules for deposits and repayments, for the forms and nature of the pass-books, for the modes of investing the deposits and other capital and for the disposal of the annual profits, together with rules for the alteration of the articles.

3. The original endowment fund of a savings bank, however provided, must consist of actual cash, and must not be less than £120 which may be repaid in whole or in part according to the terms of the deed of association, when the reserve shall have reached the position mentioned in section 17.

The persons or bodies mentioned above shall in no case, save that mentioned in section 17, derive any benefit from (or on any pecuniary interest in) the above fund, or from any subsequent additions to such capital, or from any profits derived by the bank.

4. Savings banks founded by benevolent institutions or by other corporate bodies or with their assistance must be provided with a capital and administration distinct from those of the founding body.

In no case may the administration of a savings bank be undertaken by a communal committee (giunta comunale), or by a district council, or by the members of the same.§

Savings banks may have the management || of other institutions of an economic character in so far as is admitted by the laws or by any special regulations, or by their respective articles.

5. In savings banks founded by associations, membership ¶ is personal and non-transferable.

Members of such savings banks preserve their status even after their contribution (to the endowment fund) shall have been repaid to them.

6. The directors of savings banks are prohibited from sharing in the profits and from receiving salaries or gratuities, except as regards those who occupy the position of manager.

The directors and managers are also forbidden to have pecuniary transactions with the savings banks which they direct or manage.

Savings banks of considerable importance may, however, as an exceptional case, allow sitting fees to directors.**

7. The pass-books of depositors may be personal (nominative), to bearer (al portatore), or personal but payable to bearer. Those payable to bearer may bear a name.††

8. Savings banks may also provide in their articles for the issue of a special category of pass-books to particular benevolent institutions or to particular classes of persons; these shall be characterized (1) by a lower minimum for in-payments, (2) by a limitation of the amount which shall bear interest, (3) by a higher rate of interest. This class of pass-book (*i.e.*, of deposits) shall not exceed a fixed proportion of the aggregate of deposits.

9 to 11. (Omitted.)

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* In 1888 and 1889 it was found necessary to enact as follows :—

During the year eighteen hundred and eighty-nine and every third year thereafter savings banks and institutions for savings shall call in the books of deposit of their depositors for verification in such manner as their respective boards of trustees may elect.

Every savings bank and institution for savings shall, as often as once in each of its fiscal years, make an accurate trial balance of its depositors' ledgers.

† The Italian savings banks are admirable institutions. Exclusive of the Government Post Office banks there are numerous banks formed and worked either by a group of trustees or by public or *quasi*-public bodies (corpi morali) or societies, such as friendly and benefit societies and Monti di Pietà: conversely, the savings banks frequently support such societies as off-shoots from themselves. They are served almost or quite gratuitously, the trustees accepting much labour and responsibility without recompense. They have the right of investing their funds in various classes of security. The Milan Savings Bank is, perhaps, the finest institution in the world in its principles, methods, magnitude and results. (*See* the chapter in Vol. I.)

A specimen of the articles of such banks will be found in this chapter.

‡ *Corpi morali*, *i.e.*, legal persons whether corporations or corporate bodies, or bodies having a legal entity.

§ That is, the body or committee which actually administers the general work of a commune, shall not be the body or committee, as such, which shall handle the deposits of the villagers or be made officially acquainted, as savings banks' directors, with the accumulations of individuals.

|| "Avere la gestione": the wording is insufficient; the savings banks have the right of founding as well as of working other institutions.

¶ This refers to the members who unite to found the bank; these correspond to the 'trustees' of the British Trustee Savings Banks.

** The great Milan Savings Bank, which deals with millions sterling annually in deposits, loans and investments, is managed absolutely gratuitously by its directors.

†† The pass-books most in favour in Italy are those 'to bearer.'

12. No objection to the repayment of deposits on pass-books to bearer shall be admitted, except in the case of the loss, destruction or theft of a book, or when there exists a dispute as to the bearer's right to succeed (as heir) or where there is a court injunction. When pass-books are personal objection may also be admitted in case of bankruptcy (of the depositor), or on the demand of the husband or of the legal representative of a minor.

Objections must, in order to eval id, be made in writing to the directors.

So long as the objection holds good no payment shall be made without the consent of the objector and (*quære* 'or') without the order of a competent court.

13. The amount at credit in a personal pass-book may, when the pass-book is issued, be subjected, by request of the depositor, to a special assignment (or lien, vincola); in every case, a deposit may, by consent of the owner or by order of a competent court, be assigned, transferred, subjected to a lien or attachment, or to seizure in pursuance of an execution, whether as regards the interest or the principal.

14. Savings banks may receive deposits in account current or otherwise as well as savings deposits. But such deposits must be kept in separate accounts.

15. Savings banks, except when specially authorized by royal decree upon the motion of the Minister of Agriculture, Industry and Trade, may not acquire any immovable property other than that necessary in whole or in part for their accommodation or for the carrying out of their business or for such other operations as are contemplated in section 4, or such as it may be necessary to acquire for safe-guarding their claims in the case of expropriations.

They must sell within ten years such immovable property as they may acquire either voluntarily, or in consequence of expropriations in the course of their claims, or by succession or donation.

16. Savings banks must invest their capital in the manner specified in their articles.

The articles must determine the maximum proportion of the total assets to be borne (*a*) by loans or cash credits secured by mortgages, (*b*) by investments with or loans to corporate bodies.

17. Savings banks must always devote nine-tenths of their net annual profits to the formation and increase of the reserve. The other tenth, and even a larger proportion when the reserve shall have attained the amount of at least one-tenth of the total deposits of all classes, may be devoted to works of benevolence and public utility, or to the development of the founding institution.

18. Any reform or modification of the articles shall involve the least possible departure from the intentions of the original founders.

19. (After the provisions of sections 2 and 3 have been complied with, a royal decree issued on the motion of the Minister for Agriculture shall establish the savings bank and approve its articles after due consideration. Modifications of the articles require similar approval and orders.)

20. In addition to any exemptions from stamp and registration duty allowed by the existing stamp laws to savings banks, such banks shall also be exempt from stamp and registration duty on their deeds of association, on any modifications of the same, and on any powers of attorney which may be used in the withdrawal of deposits.*

21. Savings banks shall pay the income tax † due by holders of deposits, and shall be entitled to recover the same from them. Savings banks shall also pay the said tax upon their net annual profits.

22. The business in deposits other than savings deposits, as mentioned in section 14, shall be regulated by the Code of Commerce and by the special laws relating to credit institutions, and they shall be subject to the ordinary taxes: so also the deeds relating to all investments of capital by savings banks.

23. Savings banks shall be subject to the supervision (vigilanza) of the Minister of Agriculture, Industry, and Trade.

24. The said minister shall have the power of making both periodical and extraordinary inspections of savings banks. The result of such inspections shall invariably be communicated to the directors.

25. When such inspections shall disclose misfeasance in the management of a savings bank and breaches of rule or other gross irregularities, the minister may, by a royal decree and with the consent of the Council of State, remove the directors from office. The order removing the directors shall appoint a royal commissioner who, within three months, shall nominate a new board of directors according to the articles of the bank in question.

26. When inspection shall have disclosed a loss of at least one-half of the own capital (patrimonio, *i.e.*, the endowment fund and reserves), the minister may, after taking the opinion of the Council of State, obtain a royal decree for the dissolution and liquidation of the bank, unless the founders or founding body shall, within one month from the date of ascertaining the loss, replace so much of the capital as shall enable the bank efficiently to resume and continue its business.

The liquidators shall be appointed by the minister, and the liquidation shall proceed under the rules laid down in the Code of Commerce for the liquidation of joint stock societies.

27. Savings banks must transmit to the minister their annual balance sheets duly approved (by a general meeting), within one month after approval; they must also despatch to him, at the close of each half year, a statement of their financial situation, made out in the form prescribed in the Government rules (section 32).

28. No institution which does not conform to the conditions of this law, may assume the title of 'savings bank,' even though it carries on operations of the same nature as a savings bank. (Directors contravening this article are personally liable to a fine amounting to £120.)

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* Compare the exemptions in the English law.

† This is not an exact translation of "la tassa di richezza mobile," which considerably differs in incidence, weight, and method from the English and Indian income tax. It is at present 13·7 per cent. on net profits ascertained according to the provisions of the law.

29. (Directors and others responsible may be fined up to £120, irrespective of the penalties provided by the Penal Code, if they begin business without receipt of proper authority (autorizzazione sovrana) if they contravene the law as to the investment of deposits and the provisions of sections 6 and 17, if they delay the preparation of the balance sheet and half-yearly statements for more than two months, and if, in any document or report laid before a general meeting before the directors or before Government, there shall be any wilful misrepresentation or concealment of material facts relating to the position of the bank.)

30. The minister shall, on proof of such misdemeanours, lay a complaint before the proper court for the infliction of the penalty.

31. (Omitted.)

32. A royal decree shall, after taking the opinion of the consultative committee established for considering matters of providence and labour, and of the Council of State, approve of the rules issued for the execution of the present law.*

GOVERNMENT RULES FOR THE GUIDANCE OF SAVINGS BANKS, ITALY.

1. Persons or bodies intending to establish savings banks under the special law must present a proper application with the documents hereinunder mentioned to the Minister of Agriculture, Industry, and Trade through the prefect. †

2 and 3. (Savings banks founded by associations of persons must present with the application (*a*) the deed of association and the articles (*see* section 2 of the law), (*b*) a certificate from the treasury that the requisite endowment fund has been deposited therein.

When the savings bank is founded by or by aid of a corporate body, a copy of the resolution deciding to found such bank must also accompany the application.)

4. The deed of association shall, in addition to the items mentioned in section 2 of the law, determine (1) the amount of the endowment fund, not being less than £120, and the mode of providing it; (2) the time, modes and proportion in which such fund is to be repaid after the formation of a reserve, should such repayment be contemplated; (3) the establishment of an endowment fund and administration separate from those of the founding body, when such body is a corporate body; (4) the nature of the institutions of which the bank shall have the management (section 4 of the law), with precise details as to the methods, objects and means for establishing the same.

5. The articles of a savings bank must settle the following matters:—

(1) *Deposits.*—(*a*) The minimum in-payment, and—should it be considered necessary—the maximum amount which shall bear interest; (*b*) (similar matters for the special class of deposits mentioned in section 8 of the law); (*c*) the provisions distinguishing savings deposits from deposits on account current; (*d*) the rules for fixing interest, ordinary or extraordinary.

(2) *Pass-books.*—(*a*) The form of the pass-books, whether to bearer, &c.; (*b*) special rules under section 10 of the law (issue of duplicates); (*c*) the benevolent institutions and classes of persons to whom special pass-books are to be issued under section 8, and the maximum proportion which such deposits shall bear to the total deposits.

(3) *Repayments.*—(*a*) The maximum repayable at sight; (*b*) the conditions for the repayment of larger sums.

(4) *Administration.*—Whether the office of manager when filled by a director shall be salaried; if so the amount of such salary; (*b*) the rate of sitting fees if such shall be allowed under section 12 of the law.

(5) *Investments.*—(*a*) A precise statement of the nature of the securities in which funds may be invested; (*b*) the maximum proportion which may be invested in loans or cash credits secured by mortgages; (*c*) the maximum proportion which may be lent to or invested with corporate bodies.

6. *Distribution of net profits.*—(*a*) The use to be made of the one-tenth which is not compulsorily made over to the reserve; (*b*) the share of the profits (to be used otherwise than in increasing the reserve) and the way in which such share is to be used after the reserve shall have reached the amount fixed by section 17 of the law.

7. *Modification of the articles.*—(The cases in which modification may be demanded by a minority of the members, the proportion of such minority, and the rules for the exercise of the right).

(6) The prefect shall, within eight days from the receipt of the application (rule 1), transmit it and its enclosures to the minister, with his observations and opinion.

(7) (The minister may demand further information and propose any modifications in the articles or deed of association).

8. The royal decree, the deed of association, and the articles must be published in the official *Bulletin of institutions for thrift and providence* ‡ within one month from the date of the decree.

After such publication the minister shall release the sum placed in the treasury as per rule 2 (*b*). §

9. (Alterations in the articles require similar formalities as in sections 6 to 8.)

10. (Any person becoming a directer of a savings bank must settle within six months any claims which the bank may have upon him, or his office will become vacant.)

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* *See* the rules next following.

† The words "Prefect" and "Province" may be read in this Presidency as corresponding to "Collector" and "District" respectively.

‡ This is a monthly publication containing a mass of statistics, information, sets of articles, laws, &c., relating to institutions for thrift, &c., whether in Italy or foreign countries. Such a bulletin is necessary for India also.

§ That is, the fund is replaced at the disposal of the bank for proper investment according to the law and the articles of the bank.

11. No one may become a director who is the syndic or other member of the council of the town or province in which the bank is situated.

12. Sitting fees, permissible in exceptional cases by section 8 of the law, may only be allowed in the case of banks having a capital in deposits and otherwise of at least £200,000, and must be limited to the days on which directors are actually on duty according to their turns of office, and to meetings of the board.

13. Benevolent institutions admissible to special deposit conditions as per section 8 of the law, shall include friendly societies of working men.

In the classes of persons similarly privileged shall be included all those who depend upon manual and daily labour, and elementary school teachers.

The proportion which such special deposits shall bear to total deposits shall not exceed one-tenth.

14. (Accounts current to be distinct in every way from savings deposits.)

15. (Omitted.)

16. The nature of permissible investments shall be precisely specified in the articles, and no investment of any other kind shall be made by the directors.

In selecting investments, care must be taken that they possess the requisites of security and of easy realization and collection.

17. The supervision to be exercised by the minister shall be effected by the examination of the balance sheets and half-yearly statements, and by means of inspections carried out by the prefects, by the royal commissioners connected with banks of issue, and by other officers.

18. When the prefect has reason to believe that a savings bank is violating its articles, or is contravening the law or the present rules, or that it will be unable to fulfil its engagements, he shall at once inform the minister who may require him to make such inspections or examinations as may be necessary.

In any case of such gravity or urgency that there is no time for reference to the minister and for receipt of his orders, the prefect may, of his own motion, undertake the necessary inspections, informing the minister of the same forthwith. When at the prefect's head-quarters there is a commissioner charged with supervising banks of issue, it shall be his duty to perform such inspections, but it shall rest with the prefect to stimulate the action of the commissioner when such action shall not be sufficiently vigorous. The commissioner shall not, of his own motion, undertake inspections in such cases without having previously consulted with the prefect and with his consent.

19. The regular inspections shall be annual, but extraordinary inspections shall take place whenever the minister considers them necessary.

Regular and extraordinary inspections shall be carried out by suitable examinations of the accounts, bill-book, and cash of the bank. They should especially aim at ascertaining (1) whether the books and accounts correspond with the half-yearly statements and with the annual balance sheets ; (2) whether the securities and cash as entered in the accounts are actually in hand ; (3) whether the provisions of the law, of these rules, and of the articles with regard to deposits, investments, and the reserve, are duly observed.

The inspections shall also ascertain whether the business and account keeping of the bank are well conducted.

20. Every inspection is to be carried through on the day it is begun or on consecutive days without interval, in order to obtain trustworthy results. The directors and manager must give all required assistance, and the head of each branch must be present when his branch is examined.

21. The results of any inspection must be duly recorded in a note. Any contention, that may arise between the Government officers and those of the bank, must be specially mentioned therein.

Should any irregularities be discovered such as are entered in section 29 of the law, a separate memorandum must be drawn up to be sent to the court by the minister.

The report must be sent to the minister with a note by the inspector on the general working of the institution, on the causes of any irregularities and difficulties, and on the method for removing the same.

22 and 23. (In case of loss of half the own capital (section 26 of the law), the minister shall at once call a meeting of the members or founders and enquire whether they will replace the lost capital; the reconstituted capital must never be less than the original endowment fund.)

24 and 25 (When a board of directors has been removed (section 25 of the law), the commissioner shall assume charge of the bank, reporting monthly to the minister, and taking his orders on all matters other than those of ordinary management; as soon as a new board has been appointed, he must hand over charge, a memorandum in triplicate being drawn up.)

26 to 35. (Refer to liquidation.)

36 The honoraria or other dues payable to the commissioner or to the liquidators, shall be settled by the minister for each case, and shall be paid by the bank.

37. The annual balance sheet to be sent to the minister must clearly and correctly display the working of the bank ; it must show the movement of the deposits classified according to their several categories, the profits which have accrued, the losses sustained with the causes thereof, the expenses of every sort, and the distribution of profits. It must be accompanied by a report from the directors, explanatory of the statements in the balance sheet, and discussing the progress of the bank and the working of any other institutions dependent on it.

An abstract of the various balance sheets shall be published in the bulletin for savings banks.

38. The half-yearly statements shall be sent in to the minister in the first fortnight of the next month. They must show the results in each head of account, viz., own capital, deposits, investments, expenditure, &c.

A royal decree shall, on the motion of the minister, prescribe a form for these statements, which shall be attested by (various officers) of the bank in token of correctness.

An abstract of the several statements shall be published in the bulletin.

39. When the balance sheet and statements are not sent in punctually, the minister may send an inspector to prepare them.

40. A royal decree shall settle the contribution to be paid by savings banks for the cost of publishing their several documents (deed of constitution, &c.) and statements.

41 to 48. (Are of a temporary nature.)

ARTICLES OF THE CORTONA (ITALY) SAVINGS BANKS.*

Scope.

1. The bank is directed and maintained for the benefit of the poorer classes and for the promotion of thrift among the working classes by the society established in 1865 as a branch of the Savings bank of Florence, but subsequently made an independent organization.†

2. (Mentions the laws governing the bank; *see* translation of the principal law *supra.*)

Number, admission and duties of Members.

3. The society ‡ consists of not more than 97 members, corresponding to the number of foundation shares: the status of member cannot be transferred, or transmitted by succession, and is lost whenever a member loses his civil and political rights.

4 to 9. (Members must, with certain exceptions, be residents of Cortona; vacancies are filled by election only; all appointments are made by the assembled members who may themselves be appointed; members are bound frequently to visit the bank, aud communicate, if necessary, the result of their inspections to the manager; they can never under any circumstances claim any share whether in the accumulated capital of the bank or in its annual profits.)

Representation and duties of the Society.

10. The society is represented and the bank managed by a board consisting of a chairman and nine directors.

11. A manager, secretary, and three auditors (supervisors, sindaci) complete the administration.

12. The society in general meeting appoints from among the members the chairmau, directors and auditors. All these offices are honorary (gratuitous).§

13. (The board appoints the manager who may be paid: also the secretary, who must be a member, and may also be paid.)

14 to 20. (Deal with the election, &c., of office bearers.)

The Board of Directors.

21 to 28. (Deal with the duties of directors which are of the usual nature.)

The Chairman.

29 to 32. (Deal with the duties and powers of the chairman.)

The Manager.

33 to 48. (The manager superintends all office work, represents the directorate in court and with the public, is responsible for all funds and securities, looks after the books and correspondence, and drafts the annual report, &c. He has certain powers in granting short delays in cases of dues to the bank, holds one of the three keys of the safe, and is otherwise a responsible officer from whom security is required.)

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* *See* Vol. I, pp. 203–208.

† This method is common in Italy both amongst savings and popular banks, and is distinctly favoured by the promoters of thrift and popular credit. A small branch or even agency is established by an existing bank, and this, in turn, develops into an independent unit with, subsequently, its own branches or agencies.

The Cortona bank is an offshoot of a larger bank; others are differently formed; *see* Vol. I, pp. 205, 206, *e.g.*; the Verona Savings bank is the descendant of one founded in 1825 by the local Monte di Pietà (pawnbroking establishment) which, as in Europe generally, is a public office; the Verona Municipality (comune) is the 'corporate founder of the savings bank,' which is supervised by a committee appointed by the municipal council. That of Badia Polesine was founded in 1878 by the 'Working-men's Society' of that place, which is a Friendly Society (Societá Operaia di mutuo soccorso), and which granted an endowment fund of £400 to the savings bank at its foundation: this fund bears no interest and is not repayable till the reserve of the bank shall have reached one-tenth of the deposits. That of Ferrara was formed in 1838 by a society of private persons who subscribed a fund of £425 in 100 shares, bearing no interest, but gradually repayable, in part, should circumstances permit; the object was to encourage thrift among the poorer classes by providing a secure place of deposit. That of Cingoli was founded in 1845 by the "voluntary association of 90 respectable persons, with the object of promoting thrift among the poorer classes by collecting their savings and investing them to advantage, the whole without any profit to the founders"; each share was about £2. That of Calabria Citra was founded in 1861 by the District Board (Amministrazione provinciale), and is managed by a directorate composed principally of members of the Board. That of Reggio d' Emilia was founded in 1852 by the Monte di Pietà of that place, and though it forms a separate entity it is administered by the local committee which manages the Monte and affiliated benevolent societies. In all cases the duties performed by the administrators are gratuitous.

‡ That is, the society which founded and maintains the bank, and consists of a certain number of 'members' who correspond to the 'trustees' of the English Trustee Savings banks.

§ *See* section 6 of the law.

*The Auditors.**

49. It is the duty of the auditors (sindaci) to follow continuously the proceedings of the directorate, to assure themselves of the continuous and scrupulous observance of the articles and rules, to verify the movement and state of the cash and of the securities in hand, to report to the directors any matter of importance which their inspections may disclose, and to suggest such improvements as they may consider useful whether in the management or in the system of accounts. Finally, they must review the annual balance sheet and take steps to present it to the society together with a written report mentioning such matters as may be important.

50 to 57. (Their reports should be in writing; they are entitled to pass written opinions on the modes of investing the funds; they cau require from the directors or manager any explanations or statements that they may need together with all the books, &c., that they may desire to see; they must make unexpected examinations of the cash. They may carry out their duties either collectively or by turns, but any communications to the board or to the society must be joint and not individual. One of the three keys of the safe must be held by them. No controller can hold any other office in the society.)

The Secretary.

58 to 63. (Omitted, being unimportaut.)

Meetings of the Society and of the Board.

64 to 74. (Omitted; of no special importance.)

Investment of the funds.

75. The funds of the bank (Cassa) shall be invested as follows:—

(*a*) In mortgage loans to persons of known respectability and solvency, to be returned within five years if repayable in one sum, or within 50 years if repayable by instalments;

These loans shall be secured by the mortgage of immovables, the transfer value of which shall exceed the sum advanced, with any extras, by one-half if the property be buildings, and by one-third if it be rural property (land or a farm).

Whatever be the date or mode agreed upon for the repayment of such loans, the bank shall, in case of necessity, always have the right to demand from the borrower, at four months' notice, the repayment of one-tenth of the balance still due by him, and, at one year's notice, of the total.†

(*b*) in the purchase of paper issued or guaranteed by the State, or of debentures issued by institutions legally entitled to grant real credit (*credito fondiario, crédit foncier*);

(*c*) in the acquisition, by the substitution (of the bank as creditor) of mortgages secured as in (*a*); ‡

(*d*) in advances on the pledge of Government (public) paper; such advances shall not exceed six months in term, or four-fifths of the market value of the paper, provided, moreover, that no advance shall exceed the face value of the paper;

(*e*) in discounting bills (for work done) due for public works to contractors by corporate bodies, provided that such are sufficiently guaranteed; §

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* The duties of the sindaci (controllers, supervisors or auditors) are laid down in the Code of Commerce, which provides compulsorily for the appointment, &c., of these officers in every society or company. The provisions are as follows:—

183. Three or five controllers, with two deputies, shall be appointed for the supervision of the affairs of the society, and for the audit of the balance sheet. They may be members of the society or not and are re-eligible.

Parents of directors and other relatives to the fourth degree of relationship, are not eligible as controllers.

184. The duties of controllers are as follows:—

(1) to settle, in concert with the directors, the form of the balance-sheet, and the (financial) position of the shares;

(2) to examine the books at least once in three months, so as to ascertain the current business and determine the suitability of the account system;

(3) to make frequent and unexpected examinations of the cash in hand at intervals not more than three months apart;

(4) to verify with the books at least once in every month, the existence of the various documents and securities of every sort held in pledge, as security, or under custody;

(5) to ascertain the due execution of the rules of the society;

(6) to examine the balance sheet and to report thereon;

(7) to supervise the work of liquidation;

(8) to convene extraordinary general meetings, as also ordinary ones when the directors omit to do so;

(9) to be present at all general meetings;

(10) in general, to see that the provisions of the law, and of the memorandum and articles of association are observed by the directors.

The controllers of companies which do not fall under section 177 (companies for the grant of credit which must send their returns to the Commercial Court) are entitled to obtain monthly from the directors a statement of business done.

Controllers are entitled to be present at the meetings of directors and to enter on the agenda list of such meetings and of general meetings any proposals which they may deem necessary.

† This mode of investing funds is unknown to English and French Savings banks, but is general in Germany, Austria, Italy, and the United States, and is very successful, lucrative and secure (*see* Vol. I, *s.v.* 'Savings banks').

The term and conditions of such loans differ in various banks, since the law leaves them free to settle for themselves the articles governing their investments; but the differences are only in details.

The last clause is intended to safeguard the bank in case of a sudden and general demand for the return of deposits.

‡ This enables savings banks to relieve embarrassed yet solvent persons by buying up debts of a usurious character and substituting more equitable contracts.

§ Corporate bodies such as district boards, communes, friendly and benevolent societies, &c. There is, in India also, frequently much delay in paying contractors for public work done, and as contracts for such work are often executed with money borrowed at high interest, contractors suffer loss unless the contract rates are unduly high. By discounting with a bank their invoices or bills for work done—secured by an acceptance endorsed upon them by the debtor—contractors can touch their money as soon as it is due and thus do work on cheaper terms.

(*f*) in lending upon or discounting bills of exchange of not more than six months' term, issued by corporate bodies;

(*g*) in discounting bills of exchange having three approved signatures;

(*h*) in deposits on account current with well established banks;

(*i*) in cash credits secured by mortgages of the character mentioned in paragraph (*a*);

(*l*) in accounts current against the deposit of securities or cash;

(*m*) in advances on the pawn of valuables, whether gold, silver, precious stones, goods, or domestic furniture, up to not more than two-thirds of the actual value of such property.

76. The rules to be followed in each class of investment shall be entered in special business regulations (supplementary to these articles).

77. The bank may also, should it deem fit, carry on the work of agricultural credit (credito agrario) as provided for by the law of 23rd January 1887, or such other work as may, by any special laws, come within the scope of savings banks.*

78. The bank may not invest in all more than six-tenths of its assets, as disclosed by its latest balance sheet, in loans and cash credits on mortgage to private persons and in loans to corporate bodies.

Profits.†

79. The profits of the bank shall not be divisible amongst the members (of the founding society): they shall be reserved to meet any liabilities, *first*, as regards savings deposits, *secondly*, as regards ordinary deposits. Each year the accruing profits shall be added to such reserve.

80. The society may, from time to time, determine that a portion of the profits not greater than one-tenth of each year's profits, shall be devoted to works of beneficence or to the development of providence.

81. When the reserve shall have so accumulated from the profits as to amount to and be maintained at one-tenth of the deposits of every kind, the net annual profits may be distributed as follows:—

Two-tenths to the reserve;
three-tenths to a fund for equalizing the value of securities held by the bank;
five-tenths to the fund for the execution of works of beneficence or for the development of providence.

Pass-Books and Deposit Receipts.‡

82. The bank will receive savings and deposits at the hours and on the days mentioned in the rules of business.

83. This business will be carried out through—

(*a*) pass-books for ordinary savings deposits;
(*b*) pass-books for special savings deposits;
(*c*) pass-books (personal only) for petty savings deposits by the working classes; §
(*d*) deposit receipt notes.

84. Pass-books of all kinds and receipt notes are supplied gratuitously. They must be countersigned by the chairman, manager, and two directors, and sealed.

85. All in-payments, notices of withdrawal, and repayments must be entered in the pass-books or receipt notes. Only one pass-book or receipt note may be issued to or presented by the same person.

86. Only heads of benevolent institutions, workshops, and factories may be supplied with several pass-books, and may use the same, provided that they declare in writing that such pass-books belong to as many different persons comprised in the number of their dependents.

87. (Interest to run from the tenth day after each in-payment.)

88. The account of profits shall be made up to the 31st December of each year, and, as regards pass-books, the amount shall be entered therein as though a deposit, and shall bear interest; profits on deposit receipt notes shall not bear interest and shall be payable to the receipt owner.

89. From January every depositor shall be entitled to inspect a statement showing the settlement of his account.

90. (Omitted.)

91. The pass-book or receipt note must be presented at every in-payment or withdrawal of funds.

92. In case of withdrawals, whether in whole or in part, whether at sight or on notice, and whether on pass-books or receipt notes, interest shall be calculated up to 21 days before the date of withdrawal.‖

93. If money be not withdrawn at the expiry of a notice given by a depositor, the amount shall continue to bear no interest, and shall be retained at his disposal.

94. (Omitted.)

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* The Verona savings bank provides as follows:—
"(*i*) In the creation of banks for agricultural credit, and in taking part in such banks or in land banks;
"(*m*) in loans to working-men for the purchase of tools and implements."

† *See* section 17 of the law, which requires that nine-tenths of the annual profits shall primarily be devoted to building up a reserve: the remainder must be used in works of charity or public utility or in the development of the founding institution, if any. *See* also articles 125 and 126 *infra* for the disposal of the reserve in case the society comes under liquidation.

‡ *See* sections 7 to 14 of the law of 15th July 1888.

§ Classes (*b*) and (*c*) are entered with reference to section 8 of the law, *q.v.*

‖ The effect of articles 87 and 92 read together is that the bank gains one month's interest, which is probably taken as a commission for the trouble and cost of the operations.

95. *Ordinary savings deposits.*—Ordinary deposits shall be receivable in sums of from one penny (10 centesimi) to £80 (2,000 lire). Each such deposit ceases to bear interest when it reaches the maximum of £280, interest and principal both included.

96. These deposits are withdrawable upon demand to the amount of 8*s.* 4*d.* (10 lire), or upon 21 days' notice for larger sums.

97. Except in cases expressly arranged to the contrary, the person presenting a pass-book shall be considered as its lawful owner, or as the representative of such owner.*

98. † *Special pass-books.*—Deposits on special pass-books constitute a debt by the bank personal to the individual in whose name they are issued. They are transferable or changeable in the modes provided by the law.

The bank will recognize as lawful holders of the same only those named therein, ‡ their representatives, or legal claimants.

99. Special pass-books are issued on account of minors, friendly societies, benevolent institutions, corporate bodies, and privileged persons. §

They may also be issued to other classes of persons upon a written request.

100. No in-payment on a special deposit shall be less than 10 lire (8*s.* 4*d.*).

101. The maximum sum received on a special deposit shall not exceed £280 except by special order of the board which may, in such case, prescribe special conditions as regards the deposit and as regards repayment.

102. When a special deposit has reached £400, principal and interest included, subsequent interest shall not be credited to the deposit, but shall be paid over to the deposit owner.

103. For the repayment of special deposits three weeks' notice is required for sums (from £4) up to £120, four weeks up to £200, and six weeks for larger sums. Sums not exceeding £4 are payable at sight.

104. *Deposit receipts.*—On deposit receipts money is received from single depositors in one or more instalments, each instalment not being less than £4, up to an aggregate not exceeding £800.

105. Sums due on such deposit receipts are repayable up to £200 on one month's notice; for larger sums two months' notice is necessary.

106. Repayments may be made either of the whole or of part of the sums deposited : such repayments will be made only to the persons named in the receipts, or to their proxies, or to their legal assignees.

107. With the above view it is necessary that the receipt holder shall, on his first in-payment, sign the receipt and the corresponding counterfoil in the stub.||

108. *Petty savings.*—Pass-books for petty savings deposited by the working classes may be issued to day-labourers, tenant farmers (coloni), primary school teachers, and domestic servants.¶ Deposits under this head shall not exceed one-twentieth of the total deposits of all classes.

109. The amount which may be individually deposited under this head shall not exceed £20 per depositor. When the deposit shall have reached that sum, it shall be thenceforth treated as an ordinary deposit.

110. With the view of encouraging thrift among the labouring classes, the bank will grant on such deposits a rate of interest higher than that granted on other classes of deposits, and will also establish a fund from which, at the end of each business year, bonuses shall be allotted to those depositors who, during the year, shall have made at least 40 in-payments and no withdrawal.**

111. In-payments must not be below one penny (10 centesimi) nor exceed 16*s.* 8*d.* (20 lire). †† Repayments may be made at sight up to 20 lire; larger sums require fifteen days' notice.

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* The pass-book payable to bearer is the most common and approved form used in Italy; it is, in this way, a readily negotiable security.

† *See* section 8 of the law.

‡ This includes transferees by endorsement: *see* section 13 of the law.

§ In the Verona Savings bank the corresponding rule is as follows :—

"73. (Special pass-books) shall be issued only in favour of friendly societies of artisans and agriculturists, those excepted which contemplate dividends as an object; of protective societies founded with the view of encouraging thrift and providence among the poorer classes; and of those who can prove that they belong to one of the following classes, viz.: (*a*) agriculturists who themselves labour on the soil; (*b*) working-men and artisans; (*c*) domestic servants; (*d*) members of the lower ranks of fiscal and excise servants (peons, &c.); (*e*) the several classes of police; (*f*) waiters in coffee-houses, ale-houses and inns, drivers of public and private vehicles, clerks, shop attendants, postal and telegraph servants, porters and servants in public offices, railway workmen and porters, rural police, and primary school teachers.

"76. The interest on special deposits shall be one-half per cent. higher than that on ordinary deposits."

In the Verona bank, however, the "special deposits" include both the two classes (*b*) and (*c*) mentioned in article 83 *supra*. These Cortona articles contemplate larger deposits under (*b*), and the smaller ones under (*c*).

|| It will be noticed that in Italy these deposit receipt notes are transferable.

These deposit receipts are not for a fixed term (*see* 105); some banks (*e.g.*, Foligno) provide for such deposits, the receipts for which are by law transferable.

¶ This is a rather narrow category which might with advantage be extended. The bank of Foligno grants these deposits in favour of "working-men, agriculturists, persons in service, and persons on daily wages"; this, however, does not include primary school teachers; it also allows such deposits up to one-tenth of the aggregate deposit under all heads.

** The last three words are very restrictive: in a small or village bank the wording might be "and no withdrawal save for a productive purpose, including therein the payment of rent": large banks, however, cannot watch over each depositor as a small bank can.

†† This provides a 'Penny bank' for the poorer classes. The bank of Arezzo requires "weekly" (settimanali) in payments of not less than one penny, so as to induce and regularize the saving habit; it also permits deposits till the principal reaches £40, and allows interest thereon to accumulate to a much higher sum.

112. No holder of a pass-book under this class may own more than one such deposit at a time. When such deposit shall be closed, even by transfer to ordinary deposits after reaching the sum of £20, a fresh deposit of this class may be begun, and so on.

113. *General.*—Every pass-book or receipt note shall contain the principal rule relating to deposits of the class to which it belongs.

Loss, theft, or destruction of pass-books, and objections to repayment.

114 to 121. (These articles are based on the Italian law on the subject and translation seems unnecessary. Articles 120 and 121 are as follows.)

120. The bank will suspend payment on pass-books issued to bearer in the following cases:—
(*a*) when it has received notice in due form of the loss, theft, or destruction of such book;
(*b*) when an objector has presented legal proof that a suit regarding the right of succession is pending;
(*c*) when suspension of payment is required by the judicial authorities.

121. In the case of personal pass-books (libretti nominativi), the bank will suspend payment in the following cases besides those mentioned in article 120, viz.:
(*a*) when the deposit has been attached or mortgaged, or is in any way the subject of a suit;
(*b*) when the owner has become bankrupt, has forfeited his civil rights, or has become incapacitated;
(*c*) when the husband of the holder, or the lawful representative of a minor or other incapable, objects to such payment to the wife, minor, or incapable, respectively.

Other operations.

122. The bank will be solicitous to develop its relations with similar institutions in view to harmonious and vigorous action in the field of thrift and providence.

123. It may, either individually or in conjunction with other bodies, undertake or take part in the management of other institutions of an economic character.

124. The bank may establish branches and agencies within such limits as may be useful for the development of thrift and providence.*

Own capital of the bank, &c.

125. The own capital of the bank shall be inalienable and shall constitute the reserve prescribed by law which shall be annually augmented as determined by the present articles.†

126. Should the liquidation of the society be found necessary, any of the own capital in hand shall be expended in works of public benevolence at the pleasure of the members.

MODEL ARTICLES FOR AUSTRIAN SAVINGS BANKS.‡

Objects.

1. The object of the savings bank of . . . . is to assist in the promotion of industry and thrift in general, but especially among the less prosperous classes, to invest savings readily and speedily with security and profit, and to permit their withdrawal at need.

Mode of establishment.

2. *Village (communal) savings banks.*—The bank shall be established by the village of . . . . and under its general guarantee.

The bank is not a village institution, but is an independent foundation and organization, under State inspection.

3. The village, in virtue of the resolution of the village council, dated . . . . which has been approved by the district authorities, will furnish the necessary special guarantee for the deposits and for the lawful interest thereon until released from such guarantee under the provisions of article 7 and, moreover, binds itself to defray the costs of its first establishment and working from the funds of the village, such advance to be in due time repaid from the profits of the bank.§

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* Other banks deal much more fully with this point: *e.g.*, Foligno has ten articles on the subject of which the following form part:—

"36. The general meeting may decide to establish agencies, the principal object of which shall be the collection of deposits on behalf of the parent bank.

"37. The board of directors (of the parent bank) shall appoint for each agency a committee of supervision.

"38. The work of the members of such committee shall be gratuitous.

"39. One member shall act as cashier.

"40. The committee shall be held responsible towards the bank for sums temporarily held by it."

The remaining rules relate to the regulations to be imposed on such agencies.

† *See* articles 79 to 81 *supra.*

‡ These articles are published, apparently, by authority, for the guidance of ordinary non-postal savings banks. They are intended, by modifications entered in the full text, to serve for savings banks whether established by communes (Gemeinde) or districts (Bezirk). It will be remembered that these are corporate bodies with property, rates and taxes, and duties of their own.

It has not been thought necessary to translate the articles in full; many are abstracted and some omitted.

See page 203 of Vol. I.

§ The provisions for district banks are, *mutatis mutandis*, similar, but add to article 3 that the district (authorities or council) will make gratuitous provision for the housing and management of the bank until the bank itself can bear the cost thereof out of its own profits.

The special guarantee mentioned in this article is different from the general guarantee of article 2; *see* article 7, paragraph 3.

The funds of the bank.

4. The funds of the bank shall consist (*a*) of the deposits, (*b*) of the profits of management.

5. The custody and accounts of the funds shall be kept separate from those of the village (or district).

6. The profits of management shall consist of the amount which remains after deducting the interest due to the depositors and the costs of the lawful business of the bank.

The profits shall form the reserve fund of the bank.

(Fifty per cent. of the profits shall be employed in granting higher interest to such deposits as do not exceed 500 florins (rupees) and are of one full year's standing; such interest to be placed to the depositor's credit and added to his deposit. The remaining 50 per cent. shall go to the reserve).*

7. The reserve, which is to be managed and accounted for separately from the deposits, shall be used to cover any losses. This fund shall not be touched for any other purposes until it has reached the amount of 5 per cent. of the total deposits. So soon as this proportion shall have been reached, a portion of the annual profits not exceeding one-half may, by resolution of the board of directors approved by the public (politischen) authorities of the Province, be utilized for such local objects (of the village or district, respectively) of public utility and benevolence as shall serve the interests of the poor members (depositors) of the bank.

When the reserve shall have reached an amount equal to at least 10 per cent. of the total deposits, 90 per cent. of the profits of any given year may, with the consent of the public authorities and so long as the above proportion subsists, be utilized as above.

When the reserve shall have reached the amount of 5 per cent. of the total deposits, the public authorities may consent to the release of the special guarantee mentioned in article 3. The general guarantee referred to in article 2 will, however, always remain in force.

The bank is entitled to form, in addition to the abovementioned reserve, a special reserve intended to meet any market depreciation of its securities. This special reserve must be separately shown in the balance sheet, and must not be taken into account in calculating the proportion of the general reserve to the deposits.

8. The amount expended by the village (or district) out of its own funds at the establishment of the bank shall be made good from the reserve, but repayment cannot be claimed until such reserve has reached the proportion of 2 per cent. of the total deposits.

9. In case of the dissolution of the bank the reserve, or, as the case may be, such amount as remains after the full repayment of the deposits and after the liquidation of all claims, shall be handed over to the village (or district) for employment in local objects of general utility and benevolence (*see* article 49).

Amount of the deposits.

10. Every deposit shall be received provided that it does not fall below one florin (rupee).†

The total amount receivable from a single depositor by means of gradual in-payments, shall be determined by the board of directors. The bank shall return deposits which exceed this maximum.

Interest on deposits.

11. (Rate to be fixed according to the price of money and amount of deposit, the rate decreasing as the amount increases. A month's notice to be given before reducing interest. The rates are to be entered on the first page of every pass-book.)

12. Interest is limited as follows:—

It is only calculated from the first day of the month succeeding that in which it is deposited, and up to the last day of the month preceding withdrawal.

(Or, as an alternative method, interest may be calculated by the half month, which then takes the place of the month in the preceding paragraph.)

13. (Omitted.)

14. (Rules governing the withdrawal of deposits.)

15. (Omitted.)

Pass-books.

16. (Every pass-book is to bear a consecutive number, the name of the depositor, the details of deposits, interest, and withdrawals, and the number of the corresponding page in the bank's ledger. It shall also contain a copy of the articles and a printed table showing the interest and compound interest due on deposits from the smallest receivable deposit up to 100 florins, annually for twenty years to come.)

17. For each deposit account a separate page shall be allotted in the deposit ledger, which shall show every deposit made by the particular depositor with the interest due thereon, and also all withdrawals.

18 to 23. (These articles relate to the transfer, alienation, charging, or loss of pass-books, and need not be translated.)

24. (Relates to the period of limitation for claims upon deposits not withdrawn. Deposits which thus become the property of the bank are passed into the reserve.)

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* This paragraph within brackets is evidently intended to be optional, and is probably only for use when the reserve has already attained a strong position. It is a general European (continental) rule to favour small deposits belonging to the poorer classes.

† This is a high minimum: as shown in Vol. I, page 203, the savings banks appear to serve not merely poor folk, but those somewhat well-to-do.

Investment of the funds. *

25. Such part of the deposits and own capital as will be required for probable needs, must always be held in cash. Such part as is not so required shall be so invested at interest that the engagements of the bank may be completely carried out.

The investments may be as follows:—

(1) in interest-bearing mortgage loans within the Province (and in other kingdoms and provinces of the Empire under certain conditions), but always repayable by fixed instalments and under the following conditions, viz.: (*a*) that buildings under mortgage shall be insured against fire; (*b*) that if the interest on the loans is not paid within, at latest, six weeks from due date, the whole principal with the interest due and any insurance premia that may have been paid by the bank shall be at once recoverable without notice; (*c*) that the debtor pays all costs and accepts the jurisdiction of the Court within which the bank is located;

(2) in interest-bearing loans against the pledge (*a*) of paper issued by the State; (*b*) of debentures issued by provinces, districts or communes with the necessary legal sanction; (*c*) of other paper the interest and principal of which are guaranteed by the State; (*d*) of debentures issued by irrigation societies under the law of 30th June 1884 for the improvement of agriculture by means of irrigation; (*e*) of debentures issued under proper authority against mortgages, and quoted on the Austrian Stock Exchanges; (*f*) of shares of the Austro-Hungarian bank and certain other fully paid-up shares if guaranteed by the State; (*g*) of certain railway preference shares; (*h*) of securities which by law may be declared suitable for the investment of trust and savings bank funds, even though not enumerated above.

Loans on such securities must not exceed the term of six months nor three-fourths of the market value at the time of the loan, or three-fourths of the face value of paper not quoted on the exchange, or three-fourths of the minimum value of paper redeemed by periodical drawings, all taxes deducted;

(3) in paper of the classes mentioned in paragraph 2;

(4) in loans of not more than six months upon current coin to not more than four-fifths of its nominal value;

(5) in discounting its own pass-books, and the interest coupons and securities drawn (by lot) for payment of such classes as are mentioned in paragraph 2; also in discounting and re-discounting bills bearing three good and well-known signatures. None of the above securities must be of longer term than six months;

(6) in loans at interest (*a*) to the State, (*b*) to provinces, districts, villages, and irrigation societies on mortgage of their own taxes or subscriptions when authorized to borrow on such security, (*c*) to public institutions, funds, and corporations, when the same are founded for purposes of general utility. In cases (*b*) and (*c*) interest must be paid to the bank half-yearly in advance;

(7) in loans at interest to any credit society attached to the bank or in any way established by it in accordance with these articles which are subject to the approval of the Government;

(8) in deposits with the larger Austrian savings banks;

(9) with the permission of the public authorities, in loans at interest to industrial and trading companies of limited or unlimited liability established under the law of 9th April 1873, especially to credit and loan societies to which the law of 1st June 1889—, relating to certain privileges in the matter of taxation—is applicable; such loans shall not exceed the aggregate amount paid up on the shares of the societies;

(10) in real estate should the purchase thereof be necessary for the security of the bank, as when estates indebted to the bank are brought to sale in execution (of a decree, &c., or by the bank), and it is feared that the price fetched will be so low, in comparison with the estimated value, that the claims of the bank will not be satisfied. For every such purchase the previous consent of the public authorities must be obtained; when this is impossible by reason of urgency, such consent must be subsequently obtained. Property thus obtained must be sold as soon as it can be done without disadvantage to the bank. With the previous consent of the public authorities real property may be bought by the bank for carrying on its business (for an office, &c.), but only out of its reserve funds;

(11) in endowing a loan office for the grant of personal credit to solvent and deserving peasant proprietors (Klein-Grundbesitzer), and tradesmen) Gewerbetreibende); such endowment shall not exceed 5 per cent. of the assets exclusive of the reserve. The establishment of such a loan office and the conditions of loans to the same, shall be subject to the approval of Government;

(12) in taking part in the cheque and clearing business of the imperial post office savings banks;

(13) should the above investments not exhaust the funds in hand, in deposits with reputable banks and credit societies which have been indicated by the provincial public authorities; such deposits may be on account current or on deposit receipts, provided that they are merely temporary and not permanent.

Investments under headings 9 and 13 shall not in the aggregate exceed the then existing amount of the reserve.

Privileges.

26. (These are very slight being confined to the power of selling securities held in pledge, when dues have not been paid on the loans or when the pawnor becomes bankrupt; this privilege is governed by certain laws, and does not appear to be singular to savings banks. The banks are also entitled to sell such securities if they fall in market value to nine-tenths of the market value at the time of the loan, unless the pawnor within twenty-four hours provides further cover.)

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* This is a chief point in which the practice of foreign savings banks is of interest in a study of popular credit; *see* Vol. I, pp. 198 to 218.

27 to 29. (These sections merely relate to the safe custody of cash and securities, to the times at which money will be received and issued, and to the preparation and publication of the balance-sheet.)

Decision of disputes.

30. Complaints by individual depositors (against the bank) for irregular management (or acts contrary to the articles) shall be brought before the public authorities of subordinate powers (erster Instanz), who shsll decide the case and take the necessary action. Appeals from their decisions lie to the Provincial authorities, and finally to the Home-Minister. In all other cases, whether the bank be plaintiff or defendant, recourse must be had to the regular courts.

The officers of the bank.

31 to 47. (These articles relate to the authorities of the bank, and do not seem to need translation. The committee of management shall be elected from among the village or district councillors, and those directly concerned in the administration of the bank must take every interest therein, and must never be in the position of debtors to it: the mayor of the village or head of the district is, *ex-officio*, a member of the board. The committee shall elect from its midst a body of directors, one of whom should, if possible, be a lawyer: these appoint from among themselves a manager, and if the officer is not a lawyer, a special counsel must be designated: the directors manage all the affairs of the bank with any paid staff that may be necessary. Article 47 provides that "the duties of committee members and of directors shall be gratuitous.")

State supervision.

48. A special royal commissioner shall be appointed for the bank, who will be invited to every meeting of the committee and of the directors. He must keep himself continuously acquainted with the progress of business, with the condition of the bank, and with all its affairs, must watch over the exact observance of its articles, must veto any resolutions of the committee or directors which are contrary to the law, to the regulations or to the articles, must cause the necessary precautions to be taken in the proper way for the amendment of the rules and for the security of the bank when defects and irregularities are perceived, must himself take immediate action when there is danger in delay, and must report to the public authorities of the province regarding any instructions issued to him upon the position of the bank and upon his official duties.

Dissolution of the bank.

49. The resolution to close the bank, the mode of carrying out the same, and especially the disposal of any surplus assets (article 9), shall be subject to the approval of the public authorities of the Province.

THE PRUSSIAN LAW OF SAVINGS BANKS.*

* * * * *

19. As regards the supervision of the State, it shall be, in general matters, the same as that prescribed by law for the supervision of the State over other communal institutions. Provincial Presidents (Indicé 'Collectors') and authorities shall, however, be bound to devote special and continuous attention to these institutions, to satisfy themselves that they are suited to their work and that their business is, in order, to make and to arrange for extraordinary inspections of the banks, and, when disorders and abuses are noticed, stringently to compel removal of the same.

20. Provincial Presidents must also require the banks to send in annual reports regarding the business done and the results of the bank's working, in a general form to be prescribed by the Minister of the Home and Police departments, so that a single comprehensive return for the whole Province (district) may be prepared and sent in to the said minister. Every savings bankis, moreover, bound to publish in the local newspaper, or, failing such newspaper, in the official gazette, the statement sent to the president.

21. In the case of savings banks established for larger † areas, such as taluks (Kreis) and unions, their articles must be sent for royal approval. ‡

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* *See* Vol. I, pp. 199 to 203. The contents of the regulation of 1838 are so fully stated there that detailed translation in this volume seems needless; *see*, especially, paragraphs 4 and 5 on page 201. Hence sections 19 to 21—regarding general State supervision—at the end of the regulation are alone translated. There are numerous circulars and orders which constitute a manual for Prussian Savings banks, but are too lengthy for translation in a work on credit institutions and on savings banks in their capacity of credit institutions.

† That is, larger than villages, which is the usual area contemplated by this regulation.

‡ In the case of village savings banks the articles must be approved of by the provincial presidents.

CHAPTER VI.—MADRAS NIDHIS.

MEMORANDUM OF ASSOCIATION OF THE MYLAPORE HINDU PERMANENT FUND (LIMITED).

1. The name of the association is the Mylapore Hindu Permanent Fund (Limited).
2. The registered office of the association will be situate in Mylapore, Madras.
3. The objects for which the association is established are—
   (a) to enable persons to save money ;
   (b) to invest their savings in landed property and Government promissory notes ;
   (c) to secure loans at a favourable interest on the security of immovable property situate within the original civil jurisdiction of the High Court of Judicature at Madras, of jewels and of Government promissory notes ; and
   (d) to do all such other things as are incidental or conducive to the attainment of the above subjects.
4. The liability of the members is limited.
5. The nominal capital of the association is Rs. 2,99,964 divided into 3,571 shares of Rs. 84 each to be paid in monthly instalments of one rupee.

N.B.—Raised to Rs. 9,99,936 divided into 11,904 shares in May 1885.
Raised to Rs. 19,99,956 divided into 23,809 shares in April 1889.
Raised to Rs. 24,99,924 divided into 29,761 shares in October 1895.

We the several persons, whose names and addresses are subscribed, are desirous of being formed into an association in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the association set opposite our respective names :—

Number.	Names, addresses and description of subscribers.	No. of shares taken by each subscriber.
1	C. V. Iyasawmy Moodelliar, Dubash, Messrs. Arbuthnot & Co., residing at Madras ...	15
2	P. Vasudeva Moodelliar, Dubash, Messrs. Arbuthnot & Co., residing at Madras ...	15
3	R. Balajee Row, Vakil, High Court, Mylapore	10
4	M. Singaravelu Moodelliar, Head Clerk, Collector's Office, Saidapet, residing at Mylapore	15
5	M. Srinivasacharlu, Government Pensioner, Mylapore	15
6	M. Subbraya Moodelliar, Translator, High Court, A.S., residing at Mylapore ...	12
7	T. R. Ramanadhan, Principal of Govindu Naidu's school, Madras, residing at Mylapore	15
8	C. Ramasawmy Iyengar, Landed Proprietor, residing at Mylapore	15
9	C. Seshiah, Clerk, Presidency College, residing at Mylapore	10
10	P. Durmalinga Moodelliar, Auditor, D.P.W., Controller's office, residing at Mylapore.	10
	Total ...	132

Witness to the above signatures.
D. Varada Chariar.

Dated the 13th November 1872.

ARTICLES OF ASSOCIATION OF THE MYLAPORE HINDU PERMANENT FUND (LIMITED).

Hindus to be subscribers.

1. That a Hindu may become a subscriber to the fund on any day and month of a year.

Amount of shares.

2. That subscriptions to the fund shall be in the shape of fixed integral shares of Re. 1 each per mensem.

Duration of subscription.

3. That every subscriber shall, from the date of his admission into the fund, continue to pay his subscription for a period of seven years.

What constitutes a subscriber.

4. That none shall be considered a subscriber to the fund, unless he has paid a month's subscription and an entrance fee of 6 annas per share, together with 4 annas the value of a copy of rules and a receipt book to be furnished to him on admission.

(a) Another receipt book called acknowledgment book shall, if specially applied for, be supplied on payment of 2 annas for the purpose of having payments by each subscriber entered and acknowledged immediately by the bill-collector or clerk receiving them on behalf of the fund.

Application for admission.

5. That applications for admission into the fund shall be addressed to the secretary and drawn in the printed form (Appendix A), which shall be supplied on payment of 3 pies per copy. If disapproved, they shall be rejected without reasons being assigned ; but, if approved, they shall be complied with, and a register number given consecutively to each applicant.

Liberty to increase, &c., shares.

6. That subscribers shall be at liberty to increase, decrease, transfer, sell or withdraw their share or shares within seven years from the dates of their respective admissions.

7. (Omitted as per Resolution, dated 15th May 1892, No. 2.)

Old subscribers can join the fund.

8. That subscribers who have withdrawn from the fund, shall be at liberty to rejoin it as new subscribers.

Account of each subscriber how to be closed.

9. That the account of the share or shares of every subscriber shall be closed as follows on the expiration of seven years from the date of his admission :—

(*a*) Such of the subscribers as have not borrowed money shall be paid one hundred and two and-a-half rupees per share in full satisfaction of their claims.

(*b*) Such of them as have borrowed money and cleared the debt shall have their title-deeds, bonds, jewels, &c., returned to them, and they shall be paid the balance due to them on account of the shares held by them.

(*c*) That the subscribers referred to in both (*a*) and (*b*) should be paid also profits, if any, found on the annual settlement of the accounts, according to Rule 49.

10. That the collections of the fund shall be lent to the subscribers for all or any of the following purposes at once or at different times at the rate of Rs. 100 per each of the shares held by them :—

(*a*) As a simple loan within the sums paid in subject to the stoppage mentioned in Rule No. 22.

(*b*) For the purchase, redemption, or on the mortgage of immovable property, jewels and Government promissory notes.

Nature of the real property to be mortgaged.

11. That the immovable property mentioned in the last rule shall consist of buildings, gardens, fields or grounds situated within the jurisdiction of the Original side of the Madras High Court. The property to be lodged as security shall be one in which the mortgagor has an unquestionable right and the directors shall be at liberty to reject the same without assigning reasons.

12. (Omitted as per Resolution, dated 15th May 1892, No. 7.)

Repetition of loans.

13. That subscribers, who have discharged their loans in full or in part as per Rule 33, shall be allowed to draw loans again, as per the same register numbers, security and rules of the fund under which the fully or partly discharged loans were granted.

Loans under different register numbers to be granted on the same security.

14. That subscribers holding shares under different register numbers shall be allowed loans on account of all the shares on one and the same security, provided it is of a sufficient value.

First application for loans.

15. That a subscriber wishing to raise loans on the mortgage of his property shall send an application to the secretary, specifying therein the amount of such loans.

Second application for loans.

16. That applications for loans shall be submitted to the secretary in the Form B in the appendix to the rules to be supplied on payment of 3 pies accompanied by the title-deeds and other documents, or by jewels or by Government promissory notes, as the case may be.

(Resolution, dated 15th May 1892, No. 8.)

17 and 18. (Omitted as per Resolution, dated 1st May 1892, No. 3, and 15th May 1892, No. 7.)

How real property to be valued and reported upon by surveyors.

19. That a plan and estimate of the landed property proposed to be mortgaged shall be prepared by the land appraiser of the fund subject to revision by two subscribers, who shall be appointed from time to time as surveyors; and who shall submit a report of the valuation and of the unobjectionable title of the mortgagor to the property to be mortgaged to the fund. In each case, the applicant shall pay an estimate fee of 10 annas upon every Rs. 100 or part thereof that he may borrow, and he shall also provide them with conveyance.

(*a*) That in the estimates of buildings the value of brick work be calculated at 7 pies per cubic foot, or at 16 bricks per cubic foot, rating 1,600 bricks for a pagoda.

(Resolution No. V of 10th January 1873, adopted at general meeting, dated 28th June 1874.)

(*b*) That if the estimate be submitted within a month from the date of the party first calling on him, the estimate-maker shall receive the fees in full, if within six weeks he shall receive 75 per cent. of the fees, if within two months 50 per cent., if within three months 25 per cent., and if still later, forfeit all his fees. And the date of the party first calling shall be invariably noted by the estimate-maker on the application of the party referred to him.

(Resolution No. XI of 16th October 1894, adopted at general meeting, dated 16th May 1875.)

(*c*) That when property once mortgaged to the fund is again brought up for mortgage to the fund within seven years from the date of the first mortgage ; and when the property has undergone no alteration to render a fresh estimate necessary again an estimate and bond fee of 7 annas for immovable property, and 6 annas for movable property, for every Rs. 100 or part thereof be payable to the fund.

How jewels to be valued.

20. That in case of jewel proposed to be mortgaged, they shall be referred to the jewel appraisers of the fund, who shall value and submit an estimate for the same, the applicant, in each case, being required to pay an estimate fee of 8 annas upon every Rs. 100 or part thereof that he may borrow.

Further report of surveyors.

21. That if the report or valuation made in the two cases referred to in Rules 19 and 20 be deemed unsatisfactory, the managing committee shall be competent to call for a separate report or valuation from two other subscribers to be appointed for the purpose. The surveyors shall, in all cases, be held responsible for the correctness of their report, and the appraisers for the correctness of valuation.

Stoppage in simple loans.

22. That in granting simple loans as per Rule 10, the scale of stoppages shall be as follows:—

First year	.. ..	12 per cent.
Second ,,	.. ..	10 do.
Third ,,	.. ..	8 do.
Fourth ,,	.. ..	6 do.
Fifth ,,	.. ..	4 do.
Sixth ,,	.. ..	2 do.
Seventh ,,	.. ..	No stoppage.

(*a*) That when a subscriber applies for a simple loan, the loan shall be given with the sanction of the president or the vice-president and the auditor.

(Resolution No. VII of 10th January 1873, adopted at the general meeting, dated 28th June 1874.)

What percentage of the value to be lent.

23. That in granting loans on the mortgage of landed property and jewels, no more than 75 per cent. of the estimated value, together with the amount of simple loan to which the subscriber is entitled, shall be advanced; and in giving loans on the mortgage of Government promissory notes, 10 per cent. less their market value shall be advanced at the discretion of the directors.

(*a*) That in giving loans on the mortgage of Government promissory notes, the nominal value of each paper be taken and a deduction of 12½ per cent. be made.

(Resolution No. XV of 9th November 1873, adopted at the general meeting held on the 16th May 1875.)

(*b*) That benefited subscribers should be allowed to raise a second loan on a fresh number to the full extent on the property already under mortgage with the fund for adjustment of the first loan and the balance for their other purposes.

(Resolution, dated 11th September 1891, No. II.)

Deduction of arrears from loans.

24. That from the amount to be lent to the subscribers all arrears of subscription and interest due from them shall be deducted at each time they receive the loan, as also a bond fee at one anna per every hundred rupees or any part thereof on mortgage loans only.

Loans to be paid after the execution of the necessary documents and the delivery of title-deeds and property.

25. That simple loans shall be paid to subscribers only on execution of the necessary documents; and mortgage loans shall be paid to subscribers only after they have given possession of the landed property with the title-deeds thereof or the jewels or the Government promissory notes on the security of which money is to be advanced, and have executed under their hands, deeds of mortgage of such property in approved forms.

Mortgage deeds to be executed or attested by all co-partners.

26. That mortgage deeds shall be executed or attested by all parties, whether subscribers or not, who are in the opinion of the directors interested in the property to be mortgaged.

Loans allowed to be paid either at once or at different times.

27. That if the state of the fund do not allow the payment at once of the whole amount of loan sanctioned for any subscriber, the bond shall nevertheless be taken for the whole amount, and such sums as can be spared shall, from time to time, be paid to him until they come up to the whole amount.

Special loan.

"(*a*) That in addition to the loans grantable to subscribers under Rule 10, special loans not exceeding three times the amount of such loans be granted to subscribers on mortgage of jewels only, bearing interest at 8 per cent. per annum.

"(*b*) Such interest shall be payable monthly. Penal interest at 3 pies per rupee per mensem shall be charged on all overdue instalments of interest.

"(*c*) That all such special loans shall be allowed to be repaid in instalments at the convenience of the borrower, provided that the whole amount of the loan with interest, if any, shall be repaid within three years from the date of the loan, or when he ceases to be a subscriber to the fund, if this event should happen earlier.

"(*d*) If, at any time, the borrower falls in arrears of six months' interest or if he fails to repay the loan together with interest, if any, within the period specified above, the mortgaged property will be sold in accordance with the provisions of Rule 38.

"(*e*) Interest at the rate of 2 pies per rupee per mensem shall be charged on the balance of principal and interest due at the end of the period specified above.

"(*f*) The amount of special loans and of instalments, in repayment thereof, shall be Rs. 12-8-0 or any multiple of Rs. 12-8-0."

(Resolution, dated 10th March 1895, No. 7.)

Payment.

28. That all payments to the fund shall be made within the 20th of each month to the bill-collector who shall call on every subscriber only once a month; and if no payment could be made then, the subscriber shall remit the amount direct to the treasurer or, in his absence, to the secretary.

(*a*) That for the purpose of the fund, the month be reckoned from the 21st of the one to the 20th of the next following month, and that papers, receipts and disbursements be disposed of or regulated accordingly.

(Resolution No. 14 of 31st August 1873, adopted at the general meeting held on the 28th June 1874.)

Subscriptions in advance and interest in arrears.

29. That subscriptions to the fund shall be paid in advance and interest in arrears for the full month or months, no broken periods being allowed.

Transfer fee.

30. That in all cases of transfer or sale of share or shares, a fee of 6 annas shall be paid for each share.

Duplicate receipt-book fee.

31. That if a subscriber loses his receipt book, he shall pay 4 annas for the duplicate.

How shares increased.

32. That subscribers who are desirous of increasing their shares shall be required to pay at once the arrears of subscriptions on the increased shares, together with the entrance-fee, with compound interest at six and-a-quarter per cent. per annum.

Refund of loans.

33. That such subscribers, as have drawn loans from the fund and are desirous of repaying them in whole or in part, shall be allowed to do so, provided the amount refunded shall not consist of fractional parts of a rupee.

Interest.

34. That interest on the transactions of the fund shall be charged at the following rates :—

(*a*) One pie per rupee per month on the amount of loans of all kinds whether paid or reserved in the fund at the request of subscribers.

(*b*) Two pice per rupee per month on the arrears of subscription and interest due every month.

(Resolution, dated 6th December 1891, No. 1.)

(*c*) That simple interest at twelve and-a-half per cent. per annum be chargeable upon any balance that may remain due to the fund in closing accounts after the full term of seven years.

(Recommended in paragraph 13 of the report for 1872–73, adopted at the general meeting held on the 28th June 1874.)

Appropriation of payments.

35. That where a subscriber, by whom subscription and interest are due, pays any sum, it shall be appropriated in the following order, namely, *firstly*, to fees due, from the subscriber on account of notices of default served upon him by the secretary or the vakil, *secondly*, to additional interest that may be due, and, *thirdly*, to the interest and subscription that may be due.

Defaulters.

36. That if subscribers, who are not benefited, fail to pay their subscriptions for three consecutive months, or fall in arrears of six months' subscription at any time, they may be removed from the list of subscribers' and shall have no right whatever to any benefits arising from the fund, but shall be repaid only the subscriptions paid in by them, *minus* any interest that may be due from them on arrears.

37. That if subscribers who have received simple loans fail to pay their subscriptions and interest for three consecutive months, or should the arrears of payment due by them exceed at any time six months' subscriptions, they shall be subjected to penalties mentioned in the foregoing rule.

38. That if subscribers who have received mortgage loans fail to pay their subscriptions and interest for three consecutive months, or should the arrears of payment due by them exceed at any time six months' subscriptions, they shall be subjected to the penalties mentioned in Rule 36. The managing committee shall be at liberty to cause the mortgaged property, whether movable or immovable, to be sold by public auction at any time they may deem it proper to do so.

(*a*) That the directors be at liberty to cause notice of such default to be served upon the defaulting subscriber by the secretary or by a vakil, a fee of 1 anna being charged in the former case and whatever fee is claimed in the latter case being recovered in the same way as the former.

(*b*) That in cases where subscribers execute and send promissory notes in favour of the fund from the mofussil, they be required to send them after registering them.

(Resolution, dated 6th May 1883, No. 13.)

(*c*) That when a simple loan is granted to a resident in Madras, one of the fund clerks or peons shall be present at the execution of the promissory note and make an entry of the fact in a register to be kept for the purpose, giving particulars of the name and number of subscriber, the amount and date thereof and the place of its execution and certifying to their being correct by his own signature.

(Resolution, dated 6th May 1883, No. 14.)

(*d*) That a fee of 5 annas only be charged for every sale notice issued.

(Resolution, dated 6th December 1891, No. 5.)

Disposal of sale-proceeds.

39. That from the sale-proceeds, all expenses and costs shall be deducted, and the remainder carried to the account of the subscribers; but if the remainder be less than the debt, the deficit shall be recovered from them or their heirs, executors, or administrators ; but if greater, the surplus shall be paid to them or their heirs, executors or administrators.

Improvements to the mortgaged real property.

40. That subscribers who have mortgaged their premises to the fund, and who are desirous of making any addition or improvement to them, shall be allowed to do so at their own expense, but with the previous sanction of the managing committee, and under the supervision of the person to be appointed by them. Should they fail to obtain such consent, they shall not only lose all benefits of the fund, but also be proceeded against for the recovery of the full amount due by them, at the option of the managing committee.

(*a*) That when a house or building under mortgage with the fund is proposed to be materially altered, the mortgagor shall be required to furnish a plan of the proposed alteration and also a security or two sureties for the mortgage amount, and that no such alteration be commenced or proceeded with before a written permission is granted by the secretary.

(Resolution No. VII of 5th March 1876, adopted at the general meeting held on the 25th March 1877.)

(*b*) That all immovable properties under mortgage with the fund shall be inspected and reported upon once a quarter by the fund clerk, and once a year by subscribers to be deputed for the purpose.

(Resolution No. VIII of 5th March 1876, adopted at the general meeting held on the 25th March 1877.)

41. That subscribers, whether benefited or otherwise, may be allowed to withdraw from the fund on affording satisfactory reasons for so doing. In the case of benefited subscribers, any balance due from, or to them, will be received from, or paid to them, allowing them interest not exceeding 3½ per cent. per annum on the amount of subscription paid in by them; and in the case of non-benefited subscribers, their subscriptions, *minus* interest on arrears due by them, shall be refunded within three months from the dates of applications, together with interest thereon not exceeding 3½ per cent. per annum.

Withdrawal on satisfactory grounds.

(*a*) That withdrawals from the fund shall be closed on satisfactory grounds only in the case of the subscribers who die within three years from the date of admission and subscribers of more than three years' standing should in every case have their accounts closed on satisfactory grounds.

(Resolution, dated 6th December 1891, No. 4.)

42. That when subscribers, whether benefited or otherwise, withdraw from the fund for reasons which may be deemed unsatisfactory, they shall be liable to the penalties prescribed in Rule 36, and the balance due to them shall be paid within three months.

Withdrawal on unsatisfactory grounds.

43. That the grounds of withdrawal from the fund of any subscriber, if any, shall be stated fully in the application for withdrawal, and certified to, by two of the subscribers.

How grounds of withdrawal to be stated.

44. That if any subscriber dies before the close of seven years from the date of his admission into the fund, his interest in it shall be transferred to the person named in the application for admission, and when no person is named, to his legal heir, if not opposed by other claimants within three months, but if opposed, the transfer will be suspended till the dispute between the claimants shall have been settled by a decision of a competent Court of Justice, or till the disputing parties shall have signed a duly executed deed of compromise in the presence of the directors. In either case, the liabilities of the deceased subscriber, if any, shall have to be fully satisfied before the transfer can take place.

Transfer of interest of the deceased subscribers.

45. That any person, whether a subscriber or not, intending to become a depositor in the fund, shall make an application to the secretary in the printed form (Appendix A), and he shall be at liberty to deposit any sum not less than Rs. 1–4–0 or any multiple thereof, subject to any maximum that may be fixed from time to time by the managing committee, before the 20th of each month, interest being allowed at 5 per cent. per annum upon such deposit. Such interest shall be allowed for the month in which it is deposited and not for the month in which it is repaid. All interests accruing upon deposits shall be paid half-yearly at the end of April and October of each year.

Deposit.

(*a*) That the depositors who are not subscribers shall pay an entrance fee of 12 annas, whatever may be the amount of deposit, and as often as they may renew account, and that a person opening more than one deposit account, whether subscriber or not, shall be treated as a new depositor for each account so opened.

(Resolutions Nos. XIII and XIV of 9th November 1873, adopted at the general meeting held on the 16th May 1875.)

46. That the person depositing money as per Rule 45 shall, at his own cost, be furnished with a copy of rules and a receipt book in which all payment shall be acknowledged jointly by the president and treasurer.

47. That when applications are made for the repayment of the deposit amount in part or in full, payment shall be made in the order of their receipt, from the collections of the fund, the requisite stamp charges being borne by the depositor himself.

(*a*) That when a depositor applies for repayment of his deposit money, he be repaid immediately, if money is available, with the sanction of the president or the vice-president.

(Resolution No. VI of 10th January 1873, adopted at the general meeting held on the 28th June 1874.)

(*b*) That when applications are received for the repayment of the deposit amount in part or in full, payment shall be made in the order of receipt of such applications, provided that the aggregate amount in any month shall not exceed a moiety of the collections made during the month.

(Resolution No. V of 10th October 1874, adopted at the general meeting held on the 16th May 1875.)

(*c*) That the directors shall treat as genuine every signature made in the receipt book in acknowledgment of such repayment.

(Resolution, dated 20th January 1884, No. 13.)

(*d*) That disbursements of each month on account of repayment of deposit, and paid-up subscription in cases of withdrawal, and establishment charges, shall not exceed a moiety of the aggregate monthly collection, and payment of simple and mortgage loans shall be made out of the surplus.

(Resolution, No. XI of 7th March 1875, adopted at the general meeting held on the 27th February 1876.)

48. That when the managing committee think it proper to return any deposit, they may do so by giving a month's notice to the depositor beforehand, after which no interest will be allowed.

49. That the accounts of the fund shall be closed annually, *i.e.*, up to the end of the month preceding that in which they shall have commenced; and that after setting aside what is due to the subscribers in the shape of principal and interest, one-fourth of the surplus money, that may remain, shall form a 'Reserve Fund' to meet any unforeseen and unavoidable deficit, seven-twelfths shall be divided among the subscribers with reference both to the number of their respective shares and the number of months during which they have held them, and the remaining one-sixth among the office-bearers and directors in such manner as may be determined by the managing committee.

Annual closing of the accounts and the disposal of the surplus.

(*a*) That the remuneration of the directors shall be proportioned to the number of meetings which they have attended, and the amount forfeited by them on account of absence shall be added to the reserve fund.

(Resolution No. XI of 6th December 1874, adopted at the general meeting held on 27th February 1876.)

(*b*) That a clear statement of the several sources of profit be prepared and laid before the general meeting every year.

(Confirmed at the general meeting held on the 16th May 1886.)

(*c*) That once a year the ledgers maintained in the office shall be on the occasion of the annual audit of accounts, compared as far as possible, by the permanent auditor of the fund with the receipt or pass-books granted to the constituents of the fund and any case of difference shall be noted.

(Resolution, dated 15th May 1892, No. 12.)

50. (Omitted as per Resolution, dated 15th May 1892, No. 13.)

Breaking up of the reserve fund.

51. That the reserve fund shall be broken up once in four years, and be divided as particularized in Rule 49.

Fraction of a pie.

52. That all fraction of a pie shall be either omitted or considered as one pie in favour of the fund.

Bonds in whose names to be drawn.

53. That all bonds to be executed by the subscribers shall be made out in the names of the president, the two trustees, and the secretary or the treasurer for the time being.

Title-deeds, &c., to be secured in a box.

54. That title-deeds, bonds, jewels, &c., shall be lodged in a box, secured by three locks, the keys of which shall remain in the custody of the president, one of the trustees and the secretary.

(*a*) That title-deeds so lodged in the fund be open to the inspection of the executants on due notice being given and on a payment of 4 annas for each inspection.

(Resolution, dated 6th May 1883, No. 15.)

Disbursements to be made by cheques.

55. That disbursements from the fund shall invariably be made in cheques bearing the signatures of the two trustees, except in cases in which the amount to be paid is too small to allow a cheque being granted under the rules of the bank where the fund money is lodged. In every case of payment by cheque, a fee of 1 anna shall be levied.

(*a*) That every disbursement amounting to Rs. 20 or less be payable by a cash-order drawn and signed by the trustees on the treasurer.

(*b*) That when a cash-order is lost, a duplicate may be supplied on payment of half an anna.

(Resolution, dated 16th March 1886, No. 14.)

Fraudulent conduct on the part of subscribers.

56. That if any subscriber deceives the directors by false statements or fictitious documents or in any other manner whatever, or if he has unjustly or unlawfully recourse to law in any matter whatever connected with the fund, or if he wilfully or deliberately disobeys or counteracts any of the rules or proceedings, he shall not only render himself liable to expulsion, but shall also be liable to the penalties prescribed in Rule 36, and shall never again be admitted into the fund.

Board of electors.

"(*a*) That a board consisting of 30 subscribers residing in Madras be elected by the general body of subscribers once in every five years; and such board shall have power to appoint directors for the management of the fund. That at the end of five years the members of the said board shall retire and fresh members be elected in their place. The retiring members of the board shall be eligible for re-election.

"(*b*) Vacancies occurring in the board during the period of five years shall be filled up by the members of the said board by nomination by a majority of them.

"(*c*) That none shall be eligible for election as a member of the board unless he holds not less than ten shares in the fund.

"(*d*) The president of the direction for the time being shall be an *ex-officio* member of the board, and with the exception of the president no member of the board shall be a director.

"(*e*) The appointment of directors shall be by nomination by a majority of the board. The majority for the above purpose shall be not less than ten for each vacancy.

"(*f*) That none shall be eligible for appointment as a director unless he holds not less than fifteen unencumbered shares. He shall be considered to have vacated his seat in the direction the moment he encumbers the said minimum of fifteen shares."

(Resolution, dated 10th March 1895, No. 2.)

Managing committee.

57. That the management of the fund shall be vested in a committee consisting of not more than sixteen directors including a president, a vice-president, two trustees, to be selected from among the subscribers holding not less than fifteen unencumbered shares each.

(Resolution, dated 1st May 1892, No. 4.)

"(*a*) That directors when appointed as office-bearers, excepting the president, shall, in addition to shares prescribed in Rule 57, increase their interest in the fund in the shape of a deposit account carrying at no time less than Rs. 2,000 at the credit of such directors during the incumbency of such offices.

(Resolution, dated 15th May 1892, No. 16.)

"(b) That a paid secretary, a paid auditor and a paid treasurer be appointed in the place of the present director secretary and assistant secretary, director senior and junior auditors and director treasurer and assistant treasurer; that their pay be fixed at a sum not exceeding Rs. 100, Rs. 75, and Rs. 70 respectively.

Office establishment.

"(c) That the paid secretary, the paid auditor and the paid treasurer be not directors of the fund.

"(d) That an outside auditor be appointed to conduct concurrent and annual audits.

"(e) In order to provide for this additional expenses incurred, the portion of the profits allotted to directors be reduced from one-fourth to one-sixth.

"(f) That the rules of the fund inconsistent with the above proposition be rescinded."

(Resolution, dated 10th March 1895, No. 4.)

58. That in the case of insolvency, continued absence for a period of six months, or incapacity of any of the directors, or in the case of death, resignation or retirement of a director, or for any other sufficient cause, his name shall be removed from the list of directors and another appointed in his place by the general body of subscribers at a general meeting.

(Passed by general meeting held on 16th September 1888.)

Retirement of directors.

59. That four of the directors, including office-bearers, shall retire by rotation at the close of each year, but they shall be eligible for re-election.

(Confirmed at the general meeting held on the 16th May 1886.)

Meeting of the directors.

60. That the directors shall meet every month, or oftener, if necessary, to conduct the affairs of the fund, and that seven of them shall form a quorum, without which no business shall be transacted.

How to act in the absence of the president.

61. That if the president and vice-president be absent at the monthly meetings, one of the directors present shall be appointed to act for him for the time being.

Votes.

62. That at the meetings of the directors, all matters shall be decided by a majority of votes, and that in all cases of an equal division of votes, the president, or the vice-president, or in the absence of both, the director acting for him shall have a casting vote.

Directors to decide according to the rules.

63. That the directors shall decide all matters according to the rules of the fund. When doubt arises as to the constructions of any rules or any other matter, they shall be guided by the decision of a general meeting of the subscribers.

Appeal to a general meeting.

64. That from the decision of the directors, any dissatisfied subscriber may prefer an appeal to a general meeting.

Bye-rules.

65. That the managing committee shall have the power of making, passing or altering bye-rules consistently with the main ones, should their experience render such measure necessary for the benefit of the fund. Such proceedings of the committee shall be held good, unless disapproved of by a general meeting of the subscribers.

Proceedings of the directors to be binding on subscribers.

66. That all proceedings of the managing committee relating to ordinary or important matter shall be binding on every and all subscribers, unless such proceedings are rescinded in a general meeting of the subscribers.

Duties of the secretary.

67. That the secretary shall lay for disposal all applications in their order before the committee at their monthly meetings, and record their decision and obtain their initials thereto. He shall conduct all the correspondence between the committee and the subscribers, &c., and may dispose of papers by circulating them, should he deem such measure necessary for the benefit of the fund.

(a) That the appointment, suspension or dismissal of the paid secretary, the paid treasurer and the paid auditor, and the dismissal of the rest of the office establishment shall vest in the managing committee (the directors); and that the president shall, in other respects, exercise full power over the whole office establishment.

(Resolution, dated 10th March 1895, No. 9.)

68. (Omitted as per Resolution, dated 7th April 1895, No. 4.)

Duties of the treasurer.

69. That the treasurer shall receive all payments to the fund and acknowledge the receipt thereof by affixing his signature to the receipt book accompanying the money. He shall deposit all such collections in a Chartered Bank, or in a respectable House of Agency in the names of the trustees, and the amount of cash in his hands shall in no instance exceed the sum of Rs. 50. When the bill-collector collects Rs. 50 or more in one day and finds it convenient to deposit the collection in the bank before going to the treasurer, he shall do so and take the bank receipt to the treasurer instead of cash.

Duties of the trustees.

70. That the trustees shall have the custody of all the collection deposited by the treasurer in the bank, and shall keep no money in their hands.

General meeting.

71. That a general meeting of the subscribers shall be held annually, soon after the closing of each year of the fund, for the purpose of reviewing the proceedings of the past year. *Fifty subscribers shall form a quorum at such meeting.*

(Confirmed at the general meeting held on the 16th May 1886.)

"(a) That notices for the convening of general meetings shall ordinarily be served by leaving a copy of the notice at the registered residence of every subscriber living within the municipal limits of the City of Madras, and in the case of mofussil subscribers, living within the Presidency of Madras, the service shall be by posting the notices to the registered address of such subscribers, so that in the

ordinary course the notice may reach the destination seven days before the date fixed for the meeting. But in the case of all the subscribers of the fund, whether living in British India or elsewhere, publication of such notice in a local newspaper fifteen clear days before the day fixed for the meeting shall be deemed good service under section 78 of Act VI of 1882."

(Passed by the general meeting held on 16th September 1888.)

"(b) That subscribers of not less than ninety days' standing shall be alone entitled to vote at general meetings."

(Confirmed at the general meeting held on the 2nd November 1890.)

72. That the general meetings may also be convened by the managing committee, as often as the business of the fund may necessitate, and the managing committee shall be bound to convene general meetings at the requisition of not less than 50 subscribers, specifying the reasons for the same within thirty days from the date of the requisition.

(Confirmed at the general meeting held on the 2nd November 1890.)

Chairman of the general meetings.

73. That the general meetings shall be presided over by a chairman to be nominated from among the subscribers present at the meeting, and that he shall have a casting vote in all cases of an equal division of votes.

Secretary to the general meetings.

74. That the secretary of the managing committee shall act as the secretary of all general meetings.

Power of the general meetings.

75. That the general meetings shall have power of adding to, modifying, or rescinding any of the rules of the fund or proceedings or bye-rules made by the managing committee.

76. That all matters submitted to the general meetings shall be decided by majority of votes, and that such decision shall be final and binding on the subscribers.

Definition of certain terms.

77. That in the construction of these rules, words in the singular number shall include the plural, words in the plural shall include the singular, and words in the masculine gender shall include the feminine, except when the contrary appears from the context.

Exclusion of Table A.

78. That the Regulations of Table A in the first schedule annexed to Act VI of 1882 shall not be applicable to this fund.

FORM A. REGISTER No.

Application for admission into the Fund as a Subscriber or Depositor.

To

THE SECRETARY TO THE MYLAPORE HINDU PERMANENT FUND (LIMITED).

Sir,

I request you will be good enough to admit me as a
to the above fund for shares.

2. Myself and my heirs or representatives will abide by the rules of the fund which are in existence and which may hereafter be made.

3. I declare that the following informations are correct:—

(a) *My name in full.
(b) †The names of my heirs under the law: son, wife, daughter, daughter's son, mother, father, and brothers (whether divided or not).
(c) My age.
(d) My father's name.
If female, husband's name.
(e) Religion and caste.
(f) ‡ My place of residence.
Postal address.
(g) My means of livelihood.
(h) The names of the members of the undivided family to which I belong.
If a female, the names of the husband's brothers.
(i) § The names and ages of those to whom I intend to make over all my interest in the fund on my death.
(j) If the subscriber is a minor, who is to pay and draw during minority?
(k) If already a subscriber before this application, the register number of those shares should be given.

MADRAS, Yours faithfully,

189 . (Signature as usual.)

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* This must be written clearly.
† The names of all these must be given.
‡ Change of residence should be reported.
§ Change of the intention under this head should be reported.

Form B.

Application for Mortgage Loan on Immovable Property.

To

The Secretary to the Mylapore Hindu Permanent Fund (Limited).

1. Name in full.
Age.
General Register No.
All shares held by applicant.
Father's name in full, alive or dead.
If female, husband's name, alive or dead.
Religion.
Caste.
Occupation.
Dwelling place, street and house No.

2. Amount of loan now required and in what ledger Nos. ?
Amount of former loan, if any.
And why it is required ?
Means of discharging the loan.

3. Whether the property is encumbered; if so, how ; with whom ; for how much ; and for what purpose ?

4. Description and identification of the property to be pledged.

5. If landed property, whether ancestral or self-acquired, and who owned and held it for the last 12 years, and how they are related to applicant ?

6. Names of all co-heirs.
Father.
Sons, grandsons and daughters and their age.
Brothers, brother's sons (divided or undivided), their interest in the property, if any.
Dayadies and their interest in the property.
If female, husband's name.
Names of brothers of husband.
Names of dayadies of husband.
If property, her father's property, the father's dayadies and their interest in it.

7. Title-deeds of the property together with deeds of division, or gift, release, &c., relating to the property with quit-rent and assessment bills heretofore received.
Deed of partition between brothers and dayadies.
If female, deed of division between husband and his brothers and dayadies.
If property, her father's property deed of division between her father and his brother and dayadies.

8. Names of widows, children and others entitled to maintenance from the family, and the settlement made for them, if any.

9. Names of tenants (if the property be a house and names of people who cultivate for rent (if it be landed property) at the time of mortgage.
Will the tenants attest the documents that will be executed to the fund ?
Whether tenants have executed lease for a term ?
Whether tenants have advanced rent or loan ?

10. Will you deliver all quit-rent and asessment bills every time they are received ?

11. Will you every year submit the names of such as may hereafter occupy the property ?

12. Will you pay interest if money be reserved for you ?

(Signature.)

I return this form duly filled in and declare that what is stated herein is true to the best of my knowledge and belief.

Date, 189 . (Signature.)

Form C.

Application for Mortgage Loan on Movable Property.

To

The Secretary to the Mylapore Hindu Permanent Fund (Limited).

1. Name in full.
Age.
General Register No.
All shares held by the applicant.
Father's name in full, alive or dead.
If female, husband's name, alive or dead.
Religion.
Caste.
Occupation.
Dwelling place, street and house No.

2. Amount of loan now required and ledger Nos. in which required.
Amount of former loan, if any, and in what ledger Nos. ?
And why it is required?
Means of discharging the loan.

3. Names of all co-heirs.
Father.
If female, husband's name, alive or dead.
Sons and daughters and their age.
Brothers (divided or undivided) and their interest in the property, if any.
If female, names of brothers of husband.
Dayadies and their interest in the property, if any.
If female, names of dayadies of husband.

4. Whether the property is encumbered, and if so, how and with whom and for how much?

5. If jewels, who are the wearers thereof?

6. I shall pay interest if money be reserved for me.

7. I return this form duly filled in and declare that what is stated herein is true to the best of my knowledge and belief.

(Signature.)

Date, 189 .

BYE-LAWS.

Resolution, dated 3rd August 1873.

Resolved that in case of jewels, promissory notes be taken instead of bonds and renewed on the expiration of thirty months from the date of execution and that mortgagor's signatures be obtained in the key-guardian's book wherein the jewels will be retained.

Resolution, dated 9th November 1879.

That in cases of renewal of loans within seven years, half the estimate fee be levied which is to be seven annas for immovable property and six annas for movable property.

Resolution, dated 16th November 1879.

Resolved that the price of the rules be not charged to subscribers who rejoin within a month of the ceasing of an old account.

Resolution, dated 14th December 1879.

That subscribers are liable to pay interest even if they default by reason of the fund peons not calling at their residence.

Resolution, dated 11th June 1882.

Resolved that a fee of one anna be charged for every notice from the secretary to defaulters, and that when two such notices are not followed by payment, a vakil's notice be issued and a fee of one rupee be charged. Such fees shall be deducted in the first instance from all payments. (*Vide* Resolution No. 14, dated 9th July 1882.)

Resolution, dated 9th July 1882.

In modification of Resolution No. 18 of the 11th June 1882, resolved that a fee of one rupee be charged for notices issued by vakil in the case of subscribers who have taken a loan not exceeding Rs. 5 00, and that an additional fee of 8 annas be charged for every Rs. 500 or part thereof in excess of Rs. 500, the vakil's fee for notice not exceeding Rs. 3–8–0 in any case.

Resolution, dated 11th March 1883.

Resolved that when a benefited subscriber has a period not exceeding eighteen months to complete the full term of seven years, the security deposited may be returned on his paying the full amount of subscription and interest on loan for such remaining period provided he gives a letter stating that he will have no claim on such amount, that he will not claim the repayment of such sum, and that he consents to receive the amount that may become due to him on closing of shares at the end of seven years only and not before.

Resolution, dated 24th February 1884.

Resolved that in all cases of transfer where a loan has been previously taken by the original subscriber the transfer be effected only after the documents are renewed in the name of the transferee.

Resolution, dated 16th March 1884.

Resolved that a uniform fee of half anna be charged whenever a subscriber applies for a duplicate of any cash order.

Resolution, dated 14th September 1884.

Resolved that secretary is to receive deposits up to Rs. 50 till the 15th of each month from subscribers only, sums above Rs. 50 to be received only when necessary and when passed by the committee consisting of the secretary, president and one of the trustees.

Resolution, dated 15*th February* 1885.

Resolved that no depositor be allowed to deposit any sum in excess of Rs. 50 in a month, except with the sanction of the committee referred to in Proceedings, dated 14th September 1884.

Resolution, dated 25*th October* 1885.

Resolved that the Resolution, dated 11th March 1883, prohibiting the payment in advance of subscription and interest on loans for more than eighteen months be cancelled, and that the subscribers be allowed to pay their dues in advance for any length of time.

Resolutions, dated 7*th March* 1886.

Resolved that no motion to add, to modify, to rescind or alter any of the existing rules or bye-laws of the association shall in future be brought forward at the annual general meeting unless previous notice of the same has been left in the office of the fund on or before the 1st of January.

Resolved that the secretary shall specify all the subjects to be discussed at the meeting in the notice convening the same of which previous notice may have been received.

Resolved that no motion, to add, to alter, amend, rescind or modify any of the existing rules or bye-laws be discussed at the annual general meeting unless it is stated in the notice convening the same.

Resolution, dated 26*th April* 1886.

That a clear statement of several sources of profit be prepared and laid before the general meeting every year.

Resolution, dated 5*th September* 1886.

A single promissory note may be taken, though the loan may be for several numbers, the amount under each number being specified in it.

Resolution, dated 5*th September* 1886.

Interest on loans can only be charged for the month in which the payment is made or from the month in which money has been reserved, the same being intimated to the party in due time. A month according to the fund rules ends with the 20th of each calendar month.

Resolutions, dated 17*th April* 1887.

Resolved that the Appendix C (List of subscribers) be printed with the reports and circulated.

Resolved that the Appendix D (Statement of share calls) also be printed with the report and circulated.

Resolutions, dated 17*th April* 1887.

Resolved that the directors be requested to arrange for the annual inspection of the mortgaged houses under Rule 40 being completed by the 31st January of every year.

Resolved that the directors be requested to publish along with their annual report in future a Tamil translation thereof.

Resolution, dated 22*nd April* 1888.

Resolved that surveyors of jewels should get their fee, one anna per 100.

Resolutions, dated 20*th January* 1889.

Resolved that all deposits, even sums below Rs. 25, do bear interest, provided the sums are multiples of $3\frac{1}{8}$ odd; sums in excess of multiples of $3\frac{1}{8}$ shall bear no interest, such sums being shown in separate column in the monthly statement.

Resolved that all should execute rental agreement also before the loan is disbursed.

That death of a subscriber be regarded as a satisfactory reason for withdrawal.

Resolution, dated 8*th September* 1889.

Resolved that in granting simple loans, the words "paid in" in Rule 10 (*a*) be construed as heretofore as "paid in and payable" with the understanding that arrears be recovered at the time of disbursing simple loan, and that these loans be granted accordingly.

Resolution, dated 20*th July* 1890.

Resolved that every requisitionist for a general meeting shall state his No. and place of residence with a view to his being connected as a party to the requisition.

Resolution, dated 21*st September* 1890.

Resolved that the fund shall draw the interest due on Government promissory notes mortgaged with the fund.

Resolution, dated 18th October 1891.

That money be received from 7 A.M. to 5 P.M. on all days except on the 20th when money be received from 7 A.M. to 8 P.M.

Resolution, dated 31st July 1892.

That a subscriber who is a debtor to the fund whether in the shape of arrears or of loans, is at liberty to release and receive back at any time the security he may have given or lodged by substituting for it another security:

(1) By converting simple loans into mortgage loans.

(2) By converting mortgage loan in part or full into simple loan to the extent the subscriber is entitled to at the time of the conversion subject to the conditions laid down in Rule 10.

(3) By paying up in advance subscription which may be still due to complete his eighty-four calls and interest on the loan for the remaining period and substituting the guaranteed sum up to date payable to him at the end of eighty-four months for other security already given.

(4) By doing the same in part in one and the rest in other securities, the result being that the sum payable by him as loan and subscription at the end of eighty-four months shall in no case exceed the sum for realising which the security which is now cancelled or returned has been taken.

Resolution, dated 9th October 1892.

Resolved that in future intimation of the payment into our bank should be given to the fund on or before the 21st of the month for which payment is made, when the payment shall be entered as payment on the 20th.

Resolution, dated 27th November 1892.

Resolved that there shall be only one deposit book for each subscriber.

Resolution, dated 26th March 1893.

That certificate of non-encumbrances be insisted upon, when the amount of loan applied for is Rs. 5,000 and upwards.

Resolution, dated 30th July 1893.

Resolved that every bidder do deposit Rs. 10 before he is allowed to bid at an auction, and if he does not become the purchaser of the property, his deposit shall then be returned.

Bye-laws passed from 21st October 1893 *to 20th October* 1894 *and embodied in that year's report.*

1. Resolved that in all cases of re- and further-loans full fees be levied until the margin of the full amount of the loans grantable is exhausted.
2. That in granting loans, cheques and cash orders for arrears due to the fund be drawn in the name of the secretary or his assistant.
3. Since modified.
4. The directors resolve that in future separate receipts should invariably be granted where books are not produced or cannot be returned. When subscriptions are collected by bill-collectors, they should invariably grant separate receipts.
5. Since modified.
6. In future in cases where application for loan states that it is for repairs, the applicant should be asked to state the details for repair and the probable cost. The estimator and surveyors should satisfy themselves as to the necessity for the repairs and the probable cost.
7. Resolved that conversion of one security into another be allowed.

MEMORANDUM OF ASSOCIATION OF THE JAYA-LAKSHMI BHÁNDÁRA SUB-OFFICE, HOSPET (LIMITED).

I. The name of the association is *The Jaya-Lakshmi Bhándára Sub-office* (*Limited*).

II. The registered head office of the association shall be situate in Hospet, Bellary district, and Branch office in Kampli, and in such other places in the division where the directors resolve in their meeting to establish them.

III. The objects for which the association is established are—

(*a*) to enable subscribers to save money;
(*b*) to facilitate small capitalists to make safe investments at a reasonable rate of interest;
(*c*) to grant loans to subscribers and others on security of jewels, Government promissory notes, immovable property situated within the jurisdiction of the District Munsiff's Courts of Narayanadevarakerry and Bellary, on personal or other securities approved of by the directors; and
(*d*) to do all other such things as are incidental or conducive to the attainment of the above objects.

IV. The liability of the members is limited.

V. The nominal capital of the association is Rs. 99,995, divided into 500 stock shares of Rs. 100 each to be paid at once, and 1,111 ordinary shares of Rs. 45 each to be paid in monthly instalments of Re. 1.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into an association in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the association set opposite our respective names :—

No.	Names, addresses and description of subscribers.	Number of stock shares taken by each shareholder.
1	C. H. Gond Row Sahib, Mirasidar, Honorary Magistrate, District Board Member, Hospet	15
2	A. Bheemasaina Row, First-grade Pleader, Bellary	5
3	D. Kristapah Naik, Sowcar, Chittavadigy	5
4	D. Raghavender Naik, Sowcar, Chittavadigy	5
5	R. Venkanah Kampali, Inamdar	5
6	G. Chinnapah, Honorary Magistrate, Hospet	5
7	G. Annaya Charya, Inamdar, Chittavadigy	33
8	S. Gundapah, Inamdar, Hospet	1
9	D. Jambanah, Ryot, Hospet	1
10	T. Soogurapah, Kampli, Sowcar	5
11	K. Rama Row, Kampli, Sowcar	2
12	T. Lingapah, Kampli, Sowcar	5
	Total ...	87

Dated the 1*st day of August* 1891.

Witness to the above Signatures.

M. Srinivasa Charya,
Treasurer, J. L. Bhandara, Hospet.

ARTICLES OF ASSOCIATION OF THE JAYA-LAKSHMI BHANDÁRA SUB-OFFICE (LIMITED).

Head Office—Car Street, Hospet.

Branch Office—Kampli Main Bazaar.

1. The name of the bank is ' Jaya-Lakshmi Bhandára (Limited).'

2. The Registered Head office of the company will be situate at Hospet, and Branch office at Kampli, and in such other places in the division where the directors resolve in their meeting to establish them.

Capital.

3. The capital of the company shall be Rs. 99,995 divided into 500 stock shares of Rs. 100 each, to be paid at once and 1,111 ordinary shares of Rs. 45 each to be paid in monthly instalments of Re. 1.

4. The company may, from time to time, by any special resolution passed at any general meeting, increase its capital by the issue of new shares, upon such terms and conditions as the company in general meeting may decide upon, and the new capital raised as aforesaid be considered as part of the original capital.

These rules shall be called the rules of the Jaya-Lakshmi Bhandára (Limited), which shall be registered under the Indian Companies Act of 1882.

It extends to all the immovable property situated within the jurisdiction of the District Munsiffs' Courts of Bellary and Narayandevarakerry.

Shares and Shareholders.

1. That there shall be two classes of shareholders A and B : class A consisting of those who buy stock shares from the company by paying the amount allotted, by way of deposit, call or otherwise, called *shareholders* of the company; class B of those who continue to pay their subscriptions for a period of 45 months, called the *subscribers* of the company.

2. That persons wishing to become shareholders or subscribers to the bank should send in their applications to the agent of the company, duly filled and signed in full in the forms marked A and B appended to these rules. Printed copies of which can be had on payment of 3 pies per copy.

3. That an entrance fee of As. 8 and 4, for each stock and ordinary share respectively, and As. 4 for a rule book be paid by the members.

4. Every member shall, on payment of As. 2, be entitled to get a certificate under the common seal of the company signed by the agent and countersigned by two of the directors; and such certificate shall specify the share or shares allotted to the recipient and the amount paid thereon.

5. A lost or worn out certificate may be renewed or replaced on payment of As. 8 and 4 respectively for stock and ordinary shareholders.

6. No shares shall be registered in the name of more than one person.

7. The company shall not be bound to recognise any equitable, contingent, future or partial interest in any share, and other right in respect of a share than an absolute right thereto, in accordance with these presents, in the person from time to time registered as the holder thereof.

8. Shareholders and subscribers are at liberty to increase, decrease, transfer or sell, or withdraw their shares. Monthly subscriptions and interest, &c., payable to the bank shall be paid direct to the officer in charge of the treasury, on or before the evening of the 20th of each month.

9. Shareholders or subscribers who are minors shall be entitled to get their profit, &c., through their guardians.

INTEREST AND DEPOSIT ACCOUNTS.

10. That any person, whether a shareholder, subscriber or stanger, intending to become a depositor in the bank, shall make an application to the agent or manager in the prescribed form, and he shall be at liberty to deposit any sum not less than Rs. 25. Interest is charged at the following rates and no interest for broken periods of less than half a month is calculated.

Receipts are issued for sums of Rs. 25 and upwards, as under :—

For a deposit of Rs. 500 *and above.*	*For deposits of less than* 500.
For 12 months certain at $6\frac{1}{4}$ per cent.	For 12 months certain at 6 per cent.
,, 9 ,, ,, at $5\frac{3}{4}$,,	,, 6 ,, ,, at $5\frac{1}{4}$,,
,, 6 ,, ,, at $5\frac{1}{2}$,,	
,, 3 ,, ,, at $5\frac{1}{4}$,,	

11. All interest accruing upon deposits shall be either monthly credited to the subscription of ordinary shares, or paid quarterly in the months of January, April, July and October.

12. Deposits for charity purposes will be received at the discretion of the directors, and interest at 7 per cent. shall be allowed on such deposits, the truth of which must be certified to the satisfaction of the directors.

13. That the depositors who are not shareholders or subscribers shall pay an entrance fee of As. 4 whatever may be the amount of deposit, and all depositors will be provided with a receipt book on payment of As. 2 for a copy.

14. For deposits of Rs. 5,000 and more a special rate of interest of $7\frac{1}{2}$ per cent. per annum may be allowed by the directors if the amount is urgently needed for the use of the company.

15. That if fixed depositors fail to draw the amount at the stipulated time, it will be understood that the deposits have been renewed for another period.

16. That the depositors wishing to draw back the amount within the stipulated time, may have such sum as from the monthly collections, with order of priority, when all other payments will be stopped, and only half the rate of interest will be allowed for these broken periods.

CURRENT OR FLOATING ACCOUNTS.

17. Current accounts are opened with shareholders under the following rules :—

(1) Current accounts are opened with amounts of Rs. 50 and upwards, and interest at 3 per cent. per annum is allowed, when the balance does not fall below Rs. 100. Cheques may be drawn for Rs. 5 or its multiple.

(2) Pass-books and unstamped cheque forms are supplied to constituents on payment of As.. 2 Moneys may not be withdrawn upon forms other than those furnished by the bank. Pass-books should be sent into the bank weekly or fortnightly for entries, or tendered with each lodgment of money. Depositors may not themselves make entries in the pass-books.

(3) Interest is not calculated for sums below 50.

(4) The bank cannot guarantee the non-payment of cheques lost or mislaid, but will do all in its power to protect its client.

(5) A memorandum should be sent with moneys paid into account. Forms for paying in moneys are supplied free of charge.

(6) Post-dated cheques cannot be acknowledged.

(7) The form of cheque supplied may not be altered.

(8) A notice of fifteen days at least must be given to draw cheques for sums above Rs. 200, on the bank in a month.

LOANS, DISCOUNTS AND ADVANCES.

18. That the directors shall have power to increase or reduce the rates of interest on deposits, temporary loans, as well as the rates of fees, &c., when it may be deemed necessary.

19. The collections of the bank shall be lent out to the subscribers and others under two heads of loans in the following proportions :—

(i) Permanent loans 75 per cent of the collections.

(ii) Temporary loans 25 per cent. of the collections.

20. Under the head of permanent loans, the following loans are issued :—

(*a*) Simple loans up to 95 per cent. of the total amount paid in by the member as subscription.

(*b*) That loans on security of jewels, Government promissory notes, and deposit receipt books of this bank shall be given to subscribers and others if the collections of the bank may permit.

The interest charged on simple loans under clause (*a*) is one pie per rupee per mensem ; on loans under clause (*b*) $1\frac{1}{4}$ pies.

(*c*) *Permanent* loans on immovable property are given only to the subscribers up to 75 per cent. of the estimated value of the property to be mortgaged.

Interest charged As. 10 per 100 per mensem.

N.B.—In case of Muhammadans an additional personal security is demanded.

(*d*) Permanent loans on personal security up to Rs. 50 on each ordinary share is given, provided the persons selected for such security are approved by the directors. Interest charged

As. 12 per 100 per mensem. No reason shall be assigned for rejecting any property or person offered as security.

21. *Temporary* loans shall be granted to subscribers as well as to strangers for limited periods not exceeding three months at the discretion of the agent and directors. Double rate of interest will be charged for failing to pay back the amount on the due date, if no other arrangements are made to extend the time.

22. Interest charged upon these loans is as under—

	For Subscribers—Strangers.
On jewel mortgages, &c.	$1\frac{1}{2}$ pies—$1\frac{3}{4}$ per rupee per mensem.
On landed property	$1\frac{3}{4}$ pies—2 per rupee per mensem.
Personal security	2 pies—$2\frac{1}{4}$ per rupee per mensem.

23. Regarding the payment of loans to the outsiders, they shall be subject to the following conditions:—

On all loans whether personal or on real property interest shall be paid monthly, on failure of which compound interest shall be levied at 2 pies per month for every rupee or fraction of a rupee remaining unpaid.

24. *Small lot loans* shall be granted in lots of Rs. 10 each. No more than five of the small lots shall be lent to any individual for not more than a month. The total amount of transactions under this head shall not exceed Rs. 3,000.

The interest charged on the above loans is one anna for subscribers and $1\frac{1}{4}$ annas for others per lot for every half a month.

Double rate of interest will be charged on the expiration of the due date.

25. That three separate registers shall be kept to register the loan applications, *a*, *b*, *c*.

(1) In the register marked *a* all applications for simple loans shall be registered, in *b* and *c* all other applications for permanent and temporary loans shall be registered, and they shall be paid according to the number and date of applications received from them in each month.

26. That applications for reservation of right of priority of loans shall not be attended to, unless the party agrees to pay a fee of one anna for each month so reserved.

Advances for Agricultural Purposes, &c.

27. Advances for *agricultural* purposes shall be given to the ryots from the collections of the second month or any other months which the directors resolve in their meeting of each period. That these advances shall be subject to the following conditions:—

(*a*) Advances on security of landed properties are granted up to 75 per cent. of the estimated value of the property to be mortgaged.

(*b*) Of Rs. 100, debt may be repaid by five instalments of Rs. 25 each. Nine calendar months make one instalment.

(*c*) Interest will be levied at 4 pies per half a month for every rupee or fraction of a rupee in the instalment remaining unpaid with the time allowed.

(*d*) Arrangements will be made to recover the whole amount with interest at 12 per cent. per annum from the parties, if they fail to pay their instalment within the expiration of three months from the due date.

28. Under the above conditions implements for agricultural purposes will be supplied to ryots, if they agree to liquidate the amount in five instalments of Rs. 27 each.

Endowments.

29. Endowments for children on attaining a specified age combine the advantage of providing easy means of prosecuting study in the universities, when boys attain the age of 21, and for girls an easy means of providing dowry to their husbands on their attaining the age of 14.

30. Table showing the amounts premium for providing children with Rs. 1,000 on attaining 14 or 21 years of age.

(*Table omitted.*)

(*a*) Premia will be returned in case of casuality.
(*b*) Premia may be paid either yearly, half-yearly, quarterly or monthly.
(*c*) Premia less 25 per cent. will be returned, if the party is disabled to pay the instalments.
(*d*) A promissory note will be granted for every premium paid under the above system.

Family Pensions.

31. That if a person deposits Rs. 1,000 in the bank, he or his nominee would be entitled to receive a fixed monthly pension of Rs. 10 for a period of twenty years.

32. In case of death his legal heirs will be entitled for the remaining period.

33. Special arrangements can be made with the company on the above terms.

34. The following regulations of table A annexed to Act VI of 1882 and rules of the Parent Fund are incorporated with the foregoing articles, that is to say, regulations and rules.

Notices.

35. All notices or other documents requiring to be served by the company upon the shareholders may be served either personally, or by leaving the same for, or sending them through the post in a

letter addressed to each or any shareholder at his registered place of abode, and every notice sent through the post shall be deemed to have been served at the time on which, in the usual course of post, it would have been delivered.

36. All notices to be given on the part of shareholders shall be left at the registered office of the company or sent through the post.

PROCEEDINGS OF DIRECTORS.

37. The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit and determine the quorum necessary for the transaction of business; but until some other quorum shall be determined, two directors shall form a quorum for the transaction of business. Questions arising at any meetings shall be decided by a majority of votes; in case of an equality of votes the chairman in addition to his original vote shall have a casting vote Three directors may at any time summon a meeting of the directors.

38. The directors may delegate any of their powers to committees consisting of such members of their body as they think fit; any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the directors.

MANAGEMENT.

39 Under the general control of the directors and subject to any resolutions of the Board by way of exception or otherwise, the agents shall manage all the business of the company and do all things which they shall think fit for carrying out its objects, and unless otherwise prescribed by the directors they shall be entitled to exercise all or any of the powers by the regulations for the time being of the company conferred upon or vested in the directors; and no resolution of the directors shall invalidate any prior act of the agents which would have been valid if such resolution had not been passed.

40. That two of the directors who are not office bearers, shall retire at each annual meeting by rotation according to the dates of their appointments, and members so retiring, shall be eligible for re-election; but if experience shows that the change is not necessary, the directors may be allowed to remain as they are.

41. Should the conduct of any director be found unsatisfactory to the executive body, they shall remove such a director by a majority of votes of not less than three-fourths of the members present at a meeting and appoint another in his place; such proceedings being brought for the information of the shareholders at the next annual general meeting.

42. That the appointment of all the representatives, and the working establishment of the company, and their remuneration shall be made and fixed by the agents, and shall be binding of the company, unless objected to by all the directors (save the chairman) unanimously, in which case such appointment and remuneration shall be made or fixed by a general meeting of the shareholders, which may be convened immediately, if necessary.

The directors and agents shall, subject to the control of shareholders, have powers to borrow money and secure the payment thereof by means of the credit, property and assets of the corporation, to be dealt with by them for that purpose as they, subject to the control aforesaid, shall think fit.

AUDIT.

43. The accounts of the company shall be examined and the correctness of the balance sheet ascertained by one or more auditor or auditors to be elected by the company at the ordinary general meeting in each year.

44. If not more than one auditor is appointed, all the provisions herein contained relating to auditors shall apply to him.

45. The auditors need not be shareholders in the company. No person is eligible as an auditor who is interested otherwise than as a shareholder in any transaction of the company, and no director or other officer of the company is eligible during his continuance in office.

46. The election of auditors shall be made by the votes at their ordinary meeting, or if there are more than one, at their first ordinary meeting in each year.

47. The remuneration of the auditors shall be fixed by the company at the time of their election.

48. Any auditor shall be re-eligible on his quitting office.

That the accounts of the bank shall be closed once in nine months; and that after deducting the necessary contingent establishment charges, &c., from the gross income, the following guaranteed dividend of profit will be credited to the accounts of shareholders and subscribers, viz., Rs. 4–14–0 to each stock shares Re. 1 to each subscriber's ordinary share.

Of the remaining profit 1/16 portion shall be credited to the general account of the Parent Fund.

5/16 of the profit shall be divided among the stock shareholders, and carried to their credit in the accounts as an additional profit and an equal amount to the directors of the bank, 1/8 to the agents, and the remaining 3/16 to the office bearers as hereunder particularised:—

	SHARES.
Manager	2
Trustee	1
Appraisers	2
Inspector	1

49. Previously to the directors' recommending any dividend or bonus, they may set aside out of the profits of the company such a sum as they think proper as a reserve fund.

50. No unpaid interest or dividend shall ever bear interest as against the company.

51. No member shall be entitled to receive payment of any dividend or bonus in respect of his share or shares, whilst any moneys may be due or owing from him to the company in respect of such share or shares, or otherwise howsoever.

52. The directors may deduct from the dividend or bonus payable to any shareholder all sums of money due from him to the company.

Miscellaneous.

Following are the regulations of table A and the rules of the Parent Fund referred to in rule 34:—

Regulations: Nos. 4—5—6—7—8—9—10—17—18—19—20—21—22—23—24—25—26—27—28—29—30—31—33—34—35—36—38—39—40—41—42—43—44—45—47—48—49—50—51—52—53—54—55—56—57—60—63—64—65—66—67—69—70—71—73—74—75—76—77—78—79—80—81—82—83—84—85—87—88—89—90—91—92—93—94—95—96—97;

Rules: Nos. 14—15—16—17—21—25—26—27—28—29—30—43—44—45—46—58—59—60—61—62—63—64—65—66—67—73—74—75—76—80—81—82—83—84—85—86—87.

Printed forms referred to in the foregoing rules may be had on application to the agent or manager.

CHAPTER VII (MISCELLANEOUS).

LAW OF SOCIETIES IN GENERAL.

It was originally intended to give in full a translation with notes of the company and banking law of several countries of the West, and material has been gathered for the purpose; the idea has been abandoned for the present as space and time are wanting, and as the subject is not absolutely necessary for present purposes. As a partial collection of foreign company law the reader is referred to a Parliamentary report (Commercial No. 4 of 1889), which is a compendium or notice, in English and French, of company law in general for the following countries :—Austria-Hungary, Baden and Hesse, Bavaria, Belgium, Bulgaria, Coburg, Denmark, France, Germany, Greece, Italy, Montenegro, Netherlands, Portugal, Roumania, Russia, Saxony, Servia, Spain, Sweden and Norway, Switzerland, Turkey and the United States. This compendium is formed of the reports of the British embassies in the above countries, which either notice, abstract, translate, or send in French, the general company law for the above countries. A great deal is of course lacking in such a compendium for the proper understanding of the laws, and much is omitted that would be necessary for a complete view of the law affecting co-operative societies and credit or other banking.

DUTIES OF THE ITALIAN MINISTER FOR AGRICULTURE, INDUSTRY, AND TRADE.*

The Minister for Agriculture is also the Minister for Industry and Trade; his duties under the first branch are entered under 39, those under the second under 14, and those under the third under 19 major heads, each major head involving numerous sub-heads, and in fact, often including the work of a whole department such as 'woods and forests.' The major heads which are germane to the present study are mostly within the purview of the Minister as Minister of Industry and Trade, and are as follows :—

(1) fairs and markets;
(2) land (real) and agricultural credit;
(3) approval and supervision of, and other measures regarding banks and joint stock companies;
(4) measures for the benefit of the working classes, including a consultative commission respecting provident institutions and labour, the supervision of savings banks, the conversion of charitable institutions (opere pie) into savings banks or other provident institutions, and supervision over mutual benefit (friendly) societies, and other provident institutions.

As explained in Vol. I, the full provision of public fairs and markets [item (1) *supra*] is very important in assisting ryots to obtain the full value of their labour and to avoid the middleman who is too often a usurious broker and money lender.

In dealing with items (2), (3) and (4) *supra*, the Minister by his deputies enquires into and supervises institutions granting credit on real property (credito fondiario), and agricultural credit (credito agrario), and also supervises savings banks, being guided in each case by the laws and regulations upon the subject; † he makes enquiries into co-operative societies and co-operative popular banks; he publishes a monthly 'Journal (Bollettino) of savings banks,' the 'Annals of Credit and Provident Institutions,' and the monthly journal (Bollettino) of the same; also statistics of ordinary credit, of real and agricultural credit (triennial), of popular banks (triennial), of savings banks (triennial), and of friendly (mutual benefit) societies (quinquennial). ‡

He is also concerned with provident institutions for the protection and assistance of the working classes (including, of course, agriculturists); with life insurance companies; with mutual aid societies; with pension banks; with accident insurance funds; with institutions for encouraging and assisting working-men to found and join provident institutions. He is assisted by a consultative and advisory committee respecting provident institutions and labour, and institutes enquiries and researches relating to the introduction, illustration, and promotion of all institutions intended for the material and moral improvement of the working classes.

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* In Italy the department under the Minister for Agriculture, Industry, and Trade is very comprehensive, and appears happily to combine the executive power of individuals with the experience and consultative value of standing—and largely honorary—committees of experts. It appears indeed, as a whole, to be well worth study as a possible example in many respects for India.

In the present note only so much will be noticed as relates to the functions of this Minister and his department in the matters of credit, thrift and providence. For a catalogue with, occasionally, a brief description of the general duties of the department, the reader is referred to the following Parliamentary papers, viz., Commercial Nos. 12 of 1889, 24 of 1889 and 3 of 1894. The present note is taken partly from these papers and partly from a manual of the Barbèra series.

† The laws relating to these subjects in Italy will be found fully translated *supra*, and the supervision of the Minister is mentioned therein.

‡ The journals and annals are most valuable papers, usually issued monthly; in them is to be found information collected from all other countries.

Much of the work of the department in its numerous branches is done directly by the paid staff of inspectors, &c., and by its business organization, as, for instance, by the body of six commissioners or inspectors expressly appointed for watching the working of the savings and agricultural banks. But the Minister is not solely dependent on the departmental officers; on the contrary, he is, by means of consultative and advisory committees, in touch with the experience, advice, information and assistance of business experts in every matter falling under his comprehensive notice.* There are no less than twenty-three standing committees who assist the Minister of this department with their deliberations, enquiries, and advice, and the more important committees must be exceedingly valuable and exceedingly hardworked; such are the standing councils or committees of Agriculture, of Agricultural education, of Forestry, of Agricultural credit, of Industry and Trade, &c.†

The Committee for Agricultural Credit is consultative; its duties are to give its opinion upon the demands and claims of institutions or societies granting agricultural credit (that is, credit to agriculturists not based directly upon real property) in regard to the issue of agricultural debentures; ‡ to study any improvements possible in the arrangements for agricultural credit; and to give its views on any other questions which may be laid before it by the Minister. The committee is composed of twelve members appointed by Royal Decree. The office of secretary is held by one of the inspectors appointed for the supervision of credit institutions. The minutes of the committee's discussion are published in the 'Annals of Credit and Providence.' §

The 'Committee for institutions of providence and for labour' is a consultative standing committee of eighteen members; the objects of its nomination are the study of the condition of the working classes; the provisions necessary to better their condition; the study and preparation of legal measures regarding savings banks, friendly societies, popular associations (co-operative) of credit, production, and consumption; the study of measures for securing the welfare of the working classes; and the searching out of all matters which may prove useful to the classes of labourers.

Thus far the functions of the Minister of Agriculture, &c., and of the consultative committees connected with the subjects of thrift, providence, and credit, have been dealt with, but it is deemed useful to add here the constitution and duties of the Council of Agriculture organized to assist the Minister and consisting largely of the Presidents of the Chambers of Agriculture (Comizi Agrari), the rules for and duties of which are also given: the extract is taken from Commercial 24 of 1889. No measure seems better adapted to assist agriculturists and the Director of Agriculture in all matters whether relating to agriculture itself or to rural economy in general, including in particular the organization of credit, than the establishment of a quasi-official Council for Agriculture recruited as in Italy but meeting much more often, and of practical Chambers of Agriculture recruited as mentioned in the succeeding extract. With such a Council and Chambers, endowed also with the express duty of encouraging and organizing rural associations for credit, supply, and sale of produce, it is believed that the work of the Madras Agricultural Department and the progress of rural economy would receive an extraordinary impetus.||

Council of Agriculture.—Its Constitution.

The Council of Agriculture, re-organized by Royal Decree No. 4423 of the 20th March 1887, consists of—

(*a*) Twenty-four Presidents of Chambers of Agriculture ("Comizi Agrari").¶

Six Presidents of Economic Societies, Agricultural Academies or Associations, Veterinary Societies, or other bodies established for purposes connected with agriculture, forests, or cattle-breeding.

The above are selected every year by the Minister from a list of all bodies entitled to representation in the Council.

(*b*) Fifteen Councillors, appointed annually by Royal Decree, selected from among the persons most versed in economic science and other branches of learning connected with agriculture.

(*c*) The following *ex-officio* members:—

(1) The Secretary-General of the Ministry for Agriculture, Industry and Commerce;
(2) The Director-General of Agriculture;
(3) The Chairman of the Zootechnic Commission;
(4) The Chairman of the Committee on Horse Breeding ("Comitato Ippico");
(5) The Chairman of the Council of Woods and Forests; and
(6) The Chairman of the Commission on Vine Culture and Wine Making.

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* It is in this matter that the Italian department of Agriculture, &c., and not only this particular department, is so noteworthy, and displays an example to India worthy, if not of imitation, of adaptation. The committees in question are not the associations elsewhere in this volume and in volume I (*see* "Agricultural Associations") recommended as being, on the one hand, independent bodies for the promotion of self and mutual help, and, on the other, auxiliaries to the Director of Agriculture for enquiry, for experiment, and for obtaining and disseminating information; they are standing semi-official bodies composed chiefly of non-official experts but with the assistance of officials and conducting official work (*cf.* the District Boards and Municipal Councils of the Madras Presidency). It has always appeared to the writer (*see* footnote in the section on 'Agricultural Associations') that the assistance of non-official experts though occasionally, obtained, is not obtained systematically by the official or semi-official association of such experts in standing committees. Standing committees of well selected experts are much more cautious and accurate in their advice and opinion than experts—who are not always experts—casually called upon for opinion, while it would be considered a distinct honour to be admitted to a share in the administration as the expert advisers and assistants of Government.

† The composition and duties of such of these committees as belong to the agricultural branch will be found in commercial No. 24 of 1889, and of some of those in the branches of Industry and Trade in commercial No. 12 of 1889. The description of the work of the Chambers of Agriculture and of the Council of Agriculture on pages 50 and 51, and pages 43 and 44 of commercial No. 24 of 1889, is especially interesting and suggestive; *see* this section *ad finem*.

‡ *See* Vol. I, pp. 130, 131; also the law of 1887-88 translated in the present volume.

§ These annals form valuable volumes in which the several questions are fully discussed.

|| *See* Vol. I, Chapter VIII, pp. 218—221, especially the first paragraph in that chapter; also the chapter on Agricultural Associations, especially the introduction and the description of the "Irish Agricultural Organization Society" in the present volume.

¶ *See* the extract on Chambers of Agriculture, immediately succeeding.

A President and Vice-President, selected from the members of the Council, are appointed by Royal Decree, but whenever the Minister is present at a meeting he is entitled to the chair.

The Secretary is a Clerk in the Ministry of Agriculture, &c., nominated by the Minister.

Meetings.

The ordinary annual session of the Council of Agriculture takes place in April, but the Minister may summon extraordinary meetings at any other time.

One-half of the members form a quorum, and decisions are taken by a simple majority of those present. In case of an equal division, the President has the casting vote.

Attributions.

The Council of Agriculture is consulted respecting—

Questions affecting bodies representative of agriculture;

Questions relating to the administration of woods and forests and to Gam

Measures of rural police;

Proposals for the cultivation or planting of waste lands;

The undertaking of irrigation works and agricultural improvements, the grant of public funds for such purposes, and the assignment of contracts for carrying out such improvements;

Appeals against the decisions of the commission for improving the Roman Campagna;

Questions relating to the improvement of breeds of cattle;

Measures intended to promote the development of agriculture, agricultural industries, and forest industries, or the interests of the agricultural classes.

The Council of Agriculture may also, of its own accord, propose and discuss measures which it may consider useful or necessary for the advancement of agriculture, the improvement of the condition of the rural population, the administration of woods and forests, or the development of cattle breeding and agricultural industries.

Representation on other Boards.

The Council of Agriculture is further represented—

On the Central Commission for Customs Valuation, by three delegates;

On the Council for the Assessment of Railway Rates, by three delegates;

On the Council for Agricultural Instruction, by four delegates;

On the Technical Council for the Salt and Tobacco Monopolies, by members nominated by the Minister of Finance; and

On the College of Customs Experts, by members nominated by the Minister of Finance.

Members of the Council who reside out of Rome are allowed their travelling expenses and a subsistence allowance of 15 lire (12*s.*) per diem when attending its sessions.

The proceedings of the Council of Agriculture are published in the "Annali di Agricoltura."

Chambers of Agriculture ("Comizi Agrari").

The Chambers of Agriculture ("Comizi Agrari") instituted in accordance with the provisions of the Royal Decree of the 23rd December 1866 (No. 3452), as amended by subsequent Royal Decrees of the 22nd June 1879, and the 3rd April 1884, are bodies created in every "circondario" (administrative divisions of a province corresponding to the French "arrondissements") for the purpose of advancing the interests of agriculture, and especially—

(1) Of advising the Government as to general or local measures calculated to improve the condition of agriculture;

(2) Of collecting and forwarding to the Central Government and to the representatives of their province in Parliament any information of agricultural interest;

(3) Of making known and introducing into their respective districts improvements in the systems of tillage, in agricultural implements, breeds of cattle, &c.;

(4) Of helping to carry out all measures tending to promote and protect the development of agriculture;

(5) Of promoting and organizing agricultural shows and competitions, and acting as judges; and

(6) Of promoting the necessary steps for improving and assimilating the customs in force among tenant farmers; for carrying into effect the Laws and Regulations respecting the health of cattle, for preventing the spread of epizootic diseases, and in general for the progress of agriculture.

Each commune within the "circondario," elects a representative to the Chamber of Agriculture; the chief town of the "circondario" or the seat of the Chamber, elects three representatives.

In addition to these local representatives, the Managing Board are authorized to admit as members any persons interested in the progress of agriculture who may apply to them for admission, but must report such nominations at the next general meeting.

The Managing Board of a "Comizio Agrario" consists of a President or Chairman, a Deputy Chairman, Secretary, and such number of Councillors as the Act of Constitution may determine.

The members of the Managing Board are elected for three years, one-third retiring each year, but the retiring members are re-eligible.

Besides the regular members of the Board, there are also elected substitutes who may speak at the meetings of the Board, but may only vote in the stead of any regular members who may be absent.

Chambers of Agriculture may form themselves into Associations with those of the same province, or with any others, for the purpose of effecting any special object, or generally of promoting the interests of agriculture in their province.

Chambers of Agriculture are recognized as 'institutions of public utility,' and are entitled as corporate bodies to acquire, hold, and sell property.

They have two regular sessions annually in April-May and in October-November.

At the former of these the final balance-sheet of the preceding year is discussed, as well as the proposals for the Chamber's action; and the subsidies to be asked of the Central Government and the provincial and communal authorities for the ensuing year.

(The Chambers of Agriculture correspond with the Ministry of Agriculture, Industry and Commerce through the Prefect or Sub-Prefect of their respective district; and with the communal authorities through the Syndic or Mayor of the chief town of their district.)

The second session is specially devoted to the approval of the estimates for the ensuing year, to the examination of the annual report submitted by the Board of Management, and to the election of the new members of that Board.

The annual report, as well as the estimates of receipts and expenditures for the coming year, must be approved by the "Comizio Agrario" in general session, and forwarded to the Ministry of Agriculture, &c., before the 10th December.

CHAPTER XXXVII OF THE GENERAL LAWS OF THE STATE OF NEW YORK.

The Banking Law.

Article.

1. General provisions (§§ 1–33).
2. Banks (§§ 40–92).
3. Savings banks (§§ 100–135).
4. Trust companies (§§ 150–163).
5. Building and mutual loan corporations (§§ 170–175).
6. Co-operative loan associations (§§ 180–191).
7. Mortgage, loan and investment corporations (§§ 200–205).
8. Safe deposit companies (§§ 210–216).

Article I.

GENERAL PROVISIONS.

Section.

1. Short title.
2. Definitions.
3. The banking department; superintendent.
4. Official seal of superintendent of banks.
5. Deputy clerks and examiners of the bank department.
6. Rooms and furniture.
7. Expenses, how defrayed.
8. Powers of superintendent.
9. Examination of securities deposited.
10. Unclaimed balances.
11. Examiners.
12. Examination and certificate as to payment of capital.
13. Affidavit to be made before commencing business.
14. Deposit of bonds or mortgages with superintendent.
15. Exchange of securities.
16. Publication of report of examiners.
17. Impairment of capital.
18. Proceedings against delinquent corporations.
19. Examination by order of court.
20. Reports.
21. Penalties for failure to report.
22. Publication of reports.
23. Annual report of superintendent.
24. Reports presumptive evidence.
25. Restrictions.
26. Calculation of profits.
27. Losses in excess of profits.
28. Publication of unclaimed dividends and deposits.
29. Change of location.
30. Approval and certificate of superintendent upon incorporation.
31. Permission and certificate of superintendent in case of foreign corporations.
32. Appointment of superintendent as attorney for service of process.
33. Appointment of receiver.

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1. *Short title.*—This chapter shall be known as the banking law, and shall be applicable to all corporations and individuals specified in the next section.

2. *Definitions.*—The term bank, when used in this chapter, means any monied corporation authorized by law to issue bills, notes or other evidences of debt for circulation as money, or to receive deposits of money and commercial paper and to make loans thereon, and to discount bills, notes or other commercial paper, and to buy and sell gold and silver bullion or foreign coins or bills of exchange.

The term, individual banker, when so used, means a person who has complied with the requirements of law, and is authorized by the banking department to engage in the business of banking, and is subject to the supervision of the superintendent of banks and the banking law.

The term savings bank, when so used, means a corporation only authorized by the laws of this state to receive money on deposit and pay such rates of interest thereon, and to invest the same in such securities and obligations, as may be prescribed by law.

The term, trust company, when so used, means any domestic corporation formed for the purpose of taking, accepting and executing such trusts as may be lawfully committed to it and acting as trustee in the cases prescribed by law, and receiving deposits of moneys and other personal property, and issuing its obligations therefor, and of loaning money on real or personal securities.

The term, building and mutual loan corporations or associations, when so used, means a corporation formed for the purpose of accumulating a fund for the purchase of real property, the erection of buildings, or the making of other improvements on lands, or to pay off incumbrances thereon, or to aid its members in acquiring real property, making improvements thereon or removing incumbrances therefrom, or of accumulating a fund to be returned to its members in specified cases.

The term, co-operative loan association, when so used means a corporation formed for the purpose of encouraging industry, frugality, home-building and the saving of money by its members, the accumulation of savings, the loaning of such accumulations to its members, and the repayment to each member of his savings when they have accumulated to a certain sum, or at any time when he shall desire the same, or the association shall desire to repay the same.

The term, building and mutual loan corporations or associations, and, co-operative loan associations, shall include every corporation, company or association doing business in this state and having for a part of its title or name the words building association, building and loan association, savings and loan association, savings association or co-operative bank, and every corporation, company or association whose stock is wholly or in part payable by a cumulative fund in regular or periodical instalments, or which is doing business in the form and of a character similar to that authorized by articles five and six of this chapter organized or incorporated in any state or country outside of this state.

The term, mortgage, loan or investment corporation, when so used, means any corporation other than an insurance corporation formed under the laws of this state or of any other state, and doing business in this state for the purpose of selling, offering for sale, or negotiating bonds or notes secured by deed of trust or mortgages on real property or choses in action, owned, issued, negotiated or guaranteed by it, or for the purpose of receiving any money or property, either from its own members or from other persons, and entering into any contract, engagement or undertaking with them for the withdrawal of such money or property at any time with any increase thereof, or for the payment to them or to any person of any sum of money at any time, either fixed or uncertain; and when applied to any foreign corporation doing business in this state shall include any association, co-partnership, joint-stock company, individuals or firms organized or existing under the laws of any other state or country, and engaged within this state in any such business.

The term, safe deposit company, when used in this chapter, means every domestic corporation formed for the purpose of taking and receiving upon deposit as bailee for safe-keeping and storage, jewelry, plate, money, specie, bullion, stocks, bonds, securities and valuable papers of any kind, and other valuable personal property, and guaranteeing their safety upon such terms and for such compensation as may be agreed upon by the company and the respective bailors thereof, and to rent vaults and safes and other receptacles for the purpose of such safe-keeping and storage.

3. *The banking department; superintendent.*—There shall continue to be a banking department charged with the execution of the laws relating to the corporations and individuals to which this chapter is applicable.

The chief officer of such department shall continue to be the superintendent thereof, to be known as the superintendent of banks, who shall be appointed by the governor, by and with the advice and consent of the senate, and shall hold his office for the term of three years. He shall not either directly or indirectly be interested in any such corporation, or as an individual banker. He shall receive an annual salary of five thousand dollars, to be paid monthly in the first instance out of the treasury on the warrant of the comptroller.

He shall, within fifteen days from the time of notice of his appointment, take and subscribe the constitutional oath of office and file the same in the office of the Secretary of State, and execute to the people of the state a bond in the penalty of fifty thousand dollars, with two sureties to be approved by the comptroller and treasurer of the state, conditioned for the faithful discharge of the duties of his office.

4. *Official seal of superintendent of banks.*—The Secretary of State shall proivde the superintendent of banks with an official seal. Every paper executed by him as such superintendent in pursuance of any authority conferred on him by law, and sealed with his seal of office, shall be received in evidence, and may be recorded in the proper recording offices in the same manner and with the like effect as a deed regularly acknowledged or proven.

5. *Deputy, clerks, and examiners of the bank department.*—The superintendent of banks shall employ from time to time such clerks and examiners as he may need to discharge in a proper manner the duties imposed upon him by law. They shall perform such duties as he shall assign to them.

6. *Rooms and furniture.*

7. *Expenses; how defrayed.*—All the expenses incurred in and about the conduct of the business of the department, including the salary of the superintendent and clerks, shall be charged to and paid by the corporations and individuals required to report to the superintendent under the provisions of this chapter in such proportions as the superintendent shall deem just and reasonable.

The expenses incurred and services performed on account of any such corporation or individual shall be charged to and paid by the corporation or individual for whom they were incurred or performed. If any corporation or individual shall not, after due notice, pay any such charges, the superintendent may apply the proceeds of the sale of or the dividends on any stock or the interest on any bonds and mortgages in his hands deposited by such corporation or individual to the payment of such charges, with interest, at the rate of six per cent.

The moneys so applied, and all moneys received by him in payment of such charges, shall be deposited and paid by him into the treasury of the state, to reimburse all sums advanced from the

treasury for such expenses, except moneys received from any corporation or individual banker for expenses incurred or services performed on account of any such corporation or individual, which moneys shall be applied by the superintendent in payment of such expenses and a verified account thereof included in his annual report.

If any such corporation or individual shall fail to pay such charges as herein required, and there are no stocks, bonds or mortgages in the department, the dividends or interest on which can be applied in payment thereof, the superintendent shall report to the attorney-general the failure of any such corporation or individual to pay such charges, and the attorney-general shall thereupon bring an action in the name of the people for the recovery of such charges.

8. *Powers of superintendent.*—Every corporation and individual banker specified in section two of this chapter shall be subject to the inspection and supervision of the superintendent of banks. He shall, either personally or by some competent person or persons to be appointed by him, to be known as examiners, visit and examine every such corporation and individual banker, other than savings banks, at least once in each year, and savings banks once in two years. On every such examination inquiry shall be made as to the condition and resources of the corporation, the mode of conducting and managing its affairs, the action of its directors, the investment of its funds, the safety and prudence of its management, the security afforded to those by whom its engagements are held, and whether the requirements of its charter and of law have been complied with in the administration of its affairs; and as to such other matters as the superintendent may prescribe.

He shall have power in like manner to examine every corporation and individual banker specified in section two whenever, in his judgment, its condition and management is such as to render an examination of its affairs necessary and expedient.

The superintendent and every such examiner shall have power to administer an oath to any person whose testimony may be required on any such examination, and to compel the appearance and attendance of any such person for the purpose of any such examination.

If the examination shall be made by the superintendent, or by one or more of the regular clerk in the department, no charge shall be made except for necessary travelling and other actual expenses.

The result of such examination of a savings bank shall be certified by the examiners, or one of them, upon the records of the corporation examined.

9. *Examination of securities deposited.*—The president or cashier of every such corporation, and every individual banker, shall once or more during each fiscal year, and at such time or times during ordinary business hours as he may select, examine and compare all securities deposited by such corporation or banker in the office of the superintendent with the books of the department, and, if found correct, execute to the superintendent a receipt stating the different kinds of such securities and the amounts thereof, and that they are in the custody and possession of the superintendent at the date of the receipt. Any individual banker unable to make such examination in person may, by written appointment, authorize an agent to make the same in his behalf, whose receipt shall have the same force and effect as if executed by the banker in person.

If any such corporation or individual banker shall refuse or neglect to make such examination during any fiscal year, the comptroller, Secretary of State and superintendent shall appoint some suitable and discreet person as agent for such corporation or individual banker, who shall make such examination, and if the securities so held by the superintendent shall be found to agree with the books of the department, such agent shall execute the receipt before mentioned, and it shall be of like force and effect as if executed by the president or cashier of any such corporation, or by any such individual banker, or by any agent appointed by him. Such corporation or individual banker shall pay on demand to the person so appointed and making such examination and executing such receipt, such compensation for his services and expenses in making such examination as the superintendent shall certify to be just and reasonable.

10. *Unclaimed balances.*—To be paid into the State treasury if unclaimed for six years.

11. *Examiners.*—Every examiner appointed by the superintendent shall, before entering upon the duties of his appointment, take and file in the office of the clerk of the county where he resides, the constitutional oath of office; and he shall forthwith examine fully into the books, papers and affairs of the corporation or individual banker specified in his appointment, and report on oath to the superintendent the result of such examination. No such examiner shall be appointed receiver of any corporation or individual banker whose books, papers and affairs he shall have examined pursuant to such appointment.

12. *Examination and certificate as to payment of capital.*—When any such corporation or individual banker shall have filed with the superintendent the requisite certificate prior to commencing business under the laws of this state, and shall have made the deposit, if any, required by law, the superintendent shall, before such corporation for individual banker shall be authorized to commence business, examine or cause an examination to be made in order to ascertain whether the requisite capital of such corporation or banker has been paid in, in cash. The superintendent shall not authorize such corporation or individual banker to commence business unless it appears to his satisfaction from such examination or other evidence satisfactory to him that the requisite capital has been in good faith subscribed and paid in cash.

13. *Affidavit to be made before commencing business.*—No such corporation shall commence its corporate business until its president and cashier or treasurer or secretary, or its two principal officers, by whatever name known, shall have made and subscribed an affidavit stating that the whole of its capital stock, or such portion thereof as by law shall be required to be paid or secured before the commencement of its operations, has been actually paid or secured to be paid, according to law. Such affidavit may be made before any officer authorized to administer oaths in the county where the corporation has its principal place of business, and shall be filed in the clerk's office of such county. Every such corporation shall cease to be a corporation if the affidavit above required shall not be made and filed within one year from the time its charter shall be granted.

14. *Deposit of bonds or mortgages with superintendent.*—Every such corporation, except banks, savings banks and domestic corporations specified in articles 5, 6 and 7 of this chapter, engaged

in receiving deposits of money in trust in this state, and required to make a report of its affairs to the superintendent of banks, shall, if it has not already done so, within six months from the passage of this chapter; and every such corporation hereafter proposing to engage in such business in this state shall, before engaging in such business, transfer and assign to the superintendent registered public stocks or bonds of the United States, or of this state, or of any city, county, town, village or free school district in this state, authorized by the legislature to be issued, to the amount in value, and to be at all times so maintained by the corporation, of 10 per cent. on its paid up capital stock.

Such stocks must be registered in the name of the superintendent, officially, as held in trust under and pursuant to this chapter, and the same shall be held by the superintendent in trust, as security for the depositors with and creditors of such corporation, and subject to sale and transfer, and to the disposal of the proceeds thereof by the superintendent, only on the order of a court of competent jurisdiction. Until the order of such court, authorizing such sale or transfer or other disposition thereof, the superintendent shall pay over to such corporation the interest which may be received on such securities. Should any corporation, at any time, have deposited with the superintendent more than the amount hereby required, the excess may be refunded. With the approval of the superintendent, such a deposit may be made by the corporation, either wholly or in part in bonds or mortgages satisfactory to the superintendent on improved, unincumbered, productive real property in this state, worth at least 75 per cent. more than the amount loaned thereon.

15. *Exchange of securities.*—The securities deposited by any corporation pursuant to the provisions of this chapter with the superintendent of banks in trust for any purpose, may be exchanged from time to time for other securities receivable as provided in this chapter; and so long as the corporation so depositing shall continue solvent and comply with the laws of the state, it may be permitted by the superintendent to collect the interest or dividends on such deposits, and from time to time to withdraw any of such securities on depositing with the superintendent other like securities, the par and market value of which shall be equal to the par and market value of such as may be withdrawn.

When any such deposit consists of bonds and mortgages, the president or authorized agent of every corporation depositing the same shall annex to every such mortgage his affidavit that the mortgage was made and taken in good faith for money loaned by the corporation which he represents, to the amount therein named, and that no part thereof has been since paid or returned; or if any part has been paid, the amount unpaid and that he has reason to believe and does believe that the premises thereby mortgaged are worth at least 75 per cent. more than the amount of the mortgage thereon; and the superintendent shall prescribe such regulations for ascertaining the title and value of the real property mortgaged as he may deem necessary.

16. *Publication of report of examiners.*—Whenever the superintendent shall deem it proper, a copy of any report made by any examiner shall be published in the state paper and in at least one daily newspaper in the city of New York, and in one newspaper published in the county where the principal place of business of such corporation or individual is located.

17. *Impairment of capital.*—Whenever the superintendent shall have reason to believe that the capital stock of any corporation or individual banker, subject to the provisions of this chapter, is reduced by impairment or otherwise below the amount required by law, or by its certificate or articles of association, he shall require such corporation or individual banker to make good the deficiency. He may examine or cause to be examined any such corporation to ascertain the amount of such impairment or reduction of capital, and whether the deficiency has been made good as required by him.

The directors of every such corporation upon which such requisition shall have been made shall immediately give notice of such requisition to each stockholder of the corporation, and of the amount of the assessment which he must pay for the purpose of making good such deficiency, by a written or printed notice mailed to such stockholder at his place of residence, or served personally upon him. If any stockholder shall refuse or neglect to pay the assessment specified in such notice within sixty days from the date thereof, the directors of such corporation shall have the right to sell to the highest bidder at public auction the stock of such stockholder, after giving previous notice of such sale for two weeks in a newspaper of general circulation published in the place or county where such corporation is located; but such stock shall not be sold for a smaller sum than the valuation put on it by the superintendent in his determination and certificate; and the necessary costs of the sale shall be paid out of the avails of the stock sold.

If any such corporation or individual banker shall neglect for sixty days after the superintendent shall have required such deficiency to be made good, to comply with such request, the superintendent shall report the fact to the attorney-general, who shall institute such action or proceeding against such corporation or individual banker as is now authorized in the case of insolvent corporations.

If, from any such examination or report, the superintendent shall have reason to conclude that any such bank or individual banker is in an unsound or unsafe condition to do banking business, he may forthwith take possession of such bank or individual banker's property and business, and retain such possession until the termination of the action or proceeding instituted by the attorney-general.

18. *Proceedings against delinquent corporations.*—If any such corporation or individual banker shall refuse to submit its books, papers and concerns to the inspection of any examiner, or if any officer thereof shall refuse to submit to be examined upon oath touching the concerns of such corporation or individual banker, or if it shall be found to have violated its charter, or any law of the state binding upon it, the superintendent may report the fact to the attorney-general, who shall institute such action or proceeding against such corporation or individual banker as is authorized in case of insolvent corporations.

If it shall appear to the superintendent that any such corporation or banker has violated its charter or any law of this state, or is conducting business in an unsafe or unauthorized manner, he shall, by an order under his hand and official seal, addressed to such corporation or banker, direct a discontinuance of such illegal or unsafe practices, and conformity with the requirements of its charter, and with safety and security in its transactions; and whenever it shall appear to the superintendent

that it is unsafe and inexpedient for such corporation or banker to continue business, he shall communicate the facts to the attorney-general, who shall thereupon institute such proceedings against the corporation or banker as are authorized in the case of insolvent corporations, or such other proceedings as the nature of the case may require.

19. *Examination by order of court.*—The creditors and shareholders of any such corporation, whose debts or shares shall amount to one thousand dollers may make application to the supreme court by a verified petitition setting forth facts showing that an examination of the affairs of the corporation should be made, and the court may thereupon, in its discretion, order such an examination to be made by a referee for the purpose of ascertaining the safety of the investments and the prudence of the management of the corporation. The result of every such examination, together with the opinion of the referee thereon, shall be published in such manner as the court shall direct. The court shall make such order in respect to the expenses of the examination and publication as it may deem proper.

20. *Reports.*—Every corporation and individual banker subject to the provisions of this chapter shall make a written report to the superintendent of banks, in such form and containing such matters as he shall prescribe. In the case of a bank or individual banker, the superintendent shall, at least once in every three months, designate some day therein in respect to which the report shall be made. If a savings bank, trust company or safe deposit company, such report shall be made semi-annually on or before the twentieth day of January and July in each year, and shall contain a statement of its condition on the mornings of the first days of January and July preceding. If a savings bank, such report shall state the amount loaned upon bond and mortgage, together with a list of such bonds and mortgages and the location of the mortgaged premises, as have not been previously reported, and also a list of such previously reported as have since been paid wholly or in part, or have been foreclosed, and the amount of such payments respectively; the cost, par value and estimated market value of all stock investments, designating each particular kind of stock; the amount loaned upon the pledge of securities with a statement of the securities held as collateral for such loans; the amount invested in real estate, giving the cost of the same, the amount of cash on hand, and on deposit in banks or trust companies, and the amount deposited in each; and such other information as the superintendent may require.

Such report shall also state all the liabilities of such savings corporation on the morning of the said first day of January and July; the amount due to depositors, which shall include any dividend to be credited to them for the six months ending on that day, and any other debts or claims against such corporation which are or may be a charge upon its assets. Such report shall also state the amount deposited during the year previous, and the amount withdrawn during the same period; the whole amount of interest or profits received or earned and the amount of dividends credited to depositors, together with the amount of each semi-annual credit of interest, and the amount of interest that may have been credited at other than semi-annual periods, the number of accounts opened or re-opened, the number closed during the year, and the number of open accounts at the end of the year, and such other information as may be required by the superintendent.

If a trust company or safe deposit company, such report shall contain such particulars as the superintendent may prescribe.

If a co-operative loan association, or a building and mutual loan corporation, or a mortgage, loan or investment corporation, such report shall be made annually on or before Febrnary first in each year, and shall contain a statement of its condition on the first day of January preceding. The superintendent may, for good cause shown, extend the time for making any such report not exceeding thirty days.

Every such report shall be verified by the oath of the president and cashier or treasurer of such corporation or by such individual banker, to the effect that the same is true and correct in all respects, and that the usual business of such corporation or banker has been transacted at the location required by this chapter, and not elsewhere.

The superintendent shall serve a notice designating the day in each quarter when a report shall be made upon each bank and individual banker required to report to him by delivering the same to some officer or clerk thereof at their respective places of business or by depositing the same in the post-office inclosed in a post-paid wrapper and properly directed to each of them, or some officer thereof, at their places of business respectively.

21. *Penalties for failure to report.*—If any bank or individual banker shall fail to make such report within ten days from the day designated for the making thereof, or to include therein any matter required by the superintendent, or if any savings bank or trust company shall fail to make such report within the time required by this chapter, or to include therein any matter required by the superintendent; every such delinquent bank, banker, savings bank or trust company shall forfeit to the people of the state the sum of one hundred dollars for every day that such report shall be delayed or withheld, and for every day that it shall fail to report any such omitted matter. Every other corporation subject to the provisions of this chapter which shall fail to make such report within the time herein required, or to include therein any matter required by the superintendent to be stated, shall forfeit to the people the sum of ten dollars for every day for which such report shall be delayed or withheld, and for every day that any such omitted matter may remain unreported.

Banks, including saving banks are liable to a fine of £20 *per diem*; other corporations under section 2 *supra* £2 *per diem.*

The moneys forfeited by this section, when recovered, shall be paid into the state treasury to be used to defray the miscellanous expenses of the department.

If any corporation or individual banker shall fail to make two successive reports as herein required, every such corporation shall forfeit its charter, and every such individual banker shall forfeit his privileges as such banker; and every such corporation or individual banker may be proceeded against and the affairs of such corporation closed, and such individual banker be restrained from continuance in business, in the same manner as an insolvent corporation or individual banker may be proceeded against. In case of the failure of any corporation or individual banker to make any report required

of him by law, the superintendent shall immediately cause the books, papers and affairs of such corporation or banker to be examined as directed by section 8 of this chapter.

22. *Publication of reports.*—Within thirty days after any such report shall be made, the superintendent shall, with the exception of the reports made by savings banks, publish a summary statement thereof in a paper at Albany, in which notices by state officers are required by law to be published, and the separate report of each corporation and individual banker shall be published by such corporation or individual banker in at least one newspaper of the place where its principal place of business is located, if there be one; if not then in the newspaper published nearest where the bank is located. Such summary statement shall contain the items of capital, circulation, if any, and deposits, specie, and cash items, public securities and private securities and such other matters as may be necessary to inform the public as to the financial condition and solvency of any such corporation or banker, or which the superintendent may deem proper to include therein. In the publication of such statements, the superintendent shall arrange the individual bankers in a separate class, and specify the name and place of business of each, and the names and residences of the general partners.

23. *Annual report of superintendent.*—The superintendent shall report annually to the legislature, at the commencement of its first session:—

(1) A summary of the state and condition of every corporation and individual banker required to report to him and from which reports have been received the preceding year, at the several dates to which such reports refer, with an abstract of the whole amount of capital returned by them, the whole amount of their debts and liabilities, specifying particularly the amount of circulating notes outstanding, if any, and the total amount of means and resources, specifying the amount of specie held by them at the times of their several returns, and such other information in relation to such corporations and bankers as, in his judgment, may be useful. Such corporations shall be divided into classes so as to correspond with the designations thereof in section 2 of this chapter.

(2) A statememt of all banks and individual bankers and other corporations and individuals authorized by him to do business during the previous year, with their names and locations and dates of incorporation, and particularly designating such as have commenced business during the year.

(3) A statement of the banks and individual bankers whose buisiness has been closed during the year, with the amount of their circulation redeemed and the rate per cent. of such redemption, and the amount outstanding.

(4) Any amendments to the banking law, which, in his judgment, may be desirable.

(5) The names and compensation of the clerks employed by him, and the whole amount of the expenses of the department during the year, and the amount, if any, for which the treasury shall be in advance.

Such report shall be made by or before the last day of the year, and the usual number of copies for the use of the legislature shall be printed and in readiness for distribution by the printer employed to print legislative documents, and one thousand copies shall be printed for the use of the department, the expense of which shall be charged among the general expenses of the department.

Such report may be divided into parts, and the part or parts containing the reports of corporations other than banks may be made on or before the first day of March in each year.

24. *Reports presumptive evidence.*—Every official report made by the superintendent to the attorney-general, and every report duly verified of any examination made, shall be presumptive evidence of the facts therein stated in all motions in any action or proceeding for the appointment of a temporary receiver of any corporation to which such report relates.

25. *Restrictions.*—No corporation or banker to which this chapter is applicable shall:

(1) Make any loan or discount to any person,* company, corporation or firm, or upon paper upon which any such person, company, corporation or firm may be liable to an amount exceeding the one-fifth part of its capital stock actually paid in and surplus; but the discount of bills of exchange drawn in good faith against actually existing values, or of commercial or business paper actually owned by the person negotiating the same shall not be considered as a part of any such loan or discount.

(2) No such corporation nor any of its directors, officers, agents or servants, shall directly or indirectly purchase or be interested in the purchase of any promissory note or other evidence of debt issued by it for a less sum than shall appear on the face thereof to be due. Every person violating the provisions of this sub-division shall forfeit to the people of the state three times the nomiual amount of the note or other evidence of debt so purchased.

(3) No president, director, cashier, clerk or agent of any such corporation, and no person in any way interested or concerned in the management of its affairs, shall as individuals discount, or directly or indirectly make any loan, upon any note or other evidence of debt, which he shall know to have been offered for discount to such corporation, and to have been refused. Every person violating the provisions of this sub-division, shall, for each offence, forfeit to the people of the state twice the amount of the loan which he shall have made.

26. *Calculation of profits.*—Interest unpaid, although due or accrued on debts owing to the corporation or banker, shall not be included in the calculation of its profits previous to a divided.

The surplus profits, from which alone a dividend can be made, shall be ascertained by charging in the account of profit and loss and deducting from the actual profits:

(1) All expenses paid or incurred, both ordinary and extraordinary, attending the management of its affairs and transaction of its business.

(2) The interest paid, or then due and accrued, on debts owing by it.

(3) All losses sustained by it. In the computation of such losses, all debts owing to it, shall be included which shall have remained due, without prosecution, and upon which no interest shall have been paid for more than one year, or on which judgment shall have been recovered that shall have

* This appears to mean to any one person.

remained for more than two years unsatisfied, and on which no interest shall have been paid during that period.

27. *Losses in excess of profits.*—All losses sustained by any corporation or banker subject to this chapter, in excess of its undivided profits then realized and possessed, shall be charged as a reduction of its capital stock, and no dividend shall thereafter be made on its shares of stock until the deficit of capital so created shall be made good, either by the recovery of the moneys charged as lost or from the subsequently accruing profits of the corporation.

28. *Publication of unclaimed dividends and deposits.*

29. *Change of location.*

30. *Approval and certificate of superintendent upon incorporation.*—No corporation to which this chapter is applicable shall be incorporated hereunder, or transact any business in this state other than such as relates to its formation, without the written approval of the superintendent of banks and without his written certificate stating that it has complied with the provisions of this chapter and with all the requirements of law, and that it is authorized to transact within this state the business specified therein, and that such business can be safely intrusted to it, which certificate shall be recorded in the office of the superintendent in a book to be kept by him for that purpose and a certified copy thereof filed in the office of the clerk of the county where the corporation is to have its principal business office.

New.

31. *Permission and certificate of superintendent in case of foreign corporations.*

32. *Appointment of superintendent as attorney for service of process in the case of foreign companies or associations only.*

33. *Appointment of receiver.*—If it is made to appear upon application of any creditor or shareholder in any such corporation, company or association, residing in this state that the funds on deposit with the superintendent of banks are insufficient to pay in full the creditors and shareholders residing in this state, or that it is insolvent, or has suspended business, or that insolvency or bankruptcy proceedings have been taken against it either voluntarily or involuntarily, the supreme court may, upon due notice to the attorney-general, and upon such notice to the corporation, company or association as the court shall prescribe, appoint a receiver of such funds; and pending such application, the court or any judge thereof may enjoin the commencement or prosecution of any other action or proceeding against such corporation, company or association. Upon the qualification of such receiver, the superintendent of banks shall pay over to him the funds remaining in his hands less any charges which he may have against the same, and the receiver shall distribute such funds among the creditors and shareholders of the corporation, company or association residing in this state in the manner prescribed by law for the payment of creditors in the case of voluntary dissolution of a corporation.

USURY LAWS.

Germany.*

I. The following sections shall be added to the Penal Code :—

302. (*a*) Whoever, taking undue advantage of the distress, simplicity, or inexperience of another, (Wer unter Ausbeutung der Nothlage, des Leichtsinns, oder der Unerfahrenheit eines Anderen) makes

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* A study of the organization of credit necessarily includes a consideration of the question of usury, for which, indeed, the organization of credit through association is a principal remedy. In India the usury problem is demanding, and, to some extent, receiving attention; enquiries, commissions, and legislative bills are attacking the problem, and there are clear indications, such as the Government order which initiated this report, the recent proposal in the legislature to revive the law of 'dâmdupat,' and other enquiries and bills now in hand, that some legislative answer will be attempted to the vexed question of usury. Whether the law can successfully deal with the problem is in itself a problem, and it is wholly doubtful whether direct legal interference may not exacerbate the evils of usury and hinder the solution of the difficulty. What, for instance, is usury? can the law define it? can the law so differentiate between true usury and *boná fide* insurance that the courts can punish the one and assist the other? can usury be so defined and legislated for, that its thousand forms and wiles can be detected and circumvented?

It is not contended that the law cannot at all interfere in the money-lending trade; on the contrary, it is believed that without the assistance of the law in various ways, contracts will too often be inequitable, business will be misconducted; wealth and poverty, greed and necessity, knowledge and ignorance cannot do business on equal terms if the law remains neutral or careless.

The old laws, of which those repealed in India in 1855, and those still existing in France, the United States, and elsewhere, are specimens, are mere rough-and-ready expedients; they simply laid down an arbitrary maximum, *e.g.*, 6 per cent., for interest, and rates exceeding such maximum were called usurious. The inutility of such feeble efforts is notorious; they dealt merely with one form of usury, *viz.*, that relating to money-loans, and even in that respect were and are as ludicrously inefficient as a mop to keep back the sea. This was recognized in England and in India, and the repeal of the old laws followed (in 1855) in India; Germany followed suit, and absolutely repealed her usury laws in 1867, leaving the rates of interest wholly free.

But in 1879 Germany took fright at the exploitation of society, especially of the small folk, by the usurer, and in 1880 the legislature passed a new and drastic law against usury, in which, however, wholly new ground was taken. The law no longer fixed an arbitrary maximum for interest, but, framing a certain definition of usury, left it to the courts to decide in each case whether, according to the circumstances of the case, usury had been practised: this law will be found translated in the text. It was, however, found that the law only dealt with cases of usury in money, and a further law was passed in 1893, amending the former law. To judge by the reports of economists, newspapers, and societies, especially the "Verein für social-politik," the new law has had little or no effect in restraining usury, while many consider that it has aggravated the terms of usury, since there is now a heavy personal risk to be insured against in all cases of hard bargain to which the small folk are incessantly liable. As a matter of fact, between 1882 and 1890 989 persons were prosecuted under the new law of whom 466 were convicted and 523 acquitted.

Austria followed the example of Germany, and Russia, in 1893, passed a similar law.

These laws are translated here merely for what they are worth, and as a contribution to the Indian enquiry regarding credit and usury; it is hoped to deal with the subject of usury more fully elsewhere.

The two laws of 1880 and 1893 will not be given separately, but only that of 1880 as amended by that of 1893.

to that other a money-loan or consents to prolong the period of a money-loan,* or makes any other contract having a similar business object (*i.e.*, credit), and in virtue of such loan, or contract, obtains or agrees to obtain material advantages (Vermögensvortheile) which, considering the circumstances of the case, are extraordinarily disproportionate (in auffälligem Missverhältniss) to the service rendered, shall be punished as a usurer with imprisonment which may extend to six months, and also with fine not exceeding £150. The court may also sentence the accused to the loss of his civil rights.†

302. (*b*) Whoever, for himself or for another, disguises the advantages mentioned in 302 (*a*), or obtains an entry of the same in a promissory note or bond, shall be punished with imprisonment which shall not exceed one year and also with fine not exceeding £300. The loss of civil rights may also be decreed.

302. (*c*) The same penalties as are entered in 302 (*a*) and (*b*) are also awardable to any one who having knowingly acquired a debt (claim, Forderung) bearing usurious interest either sells the same to a third party, or makes use of his usurious advantage.

302. (*d*) Whoever practises usury as defined in sections 302 (*a*) to 302 (*c*), habitually or as a business, shall be punished with imprisonment for not less than three months, and also with fine which shall not be less than £25 or more than £750. He shall also lose his civil rights.

302. (*e*) The same penalty as in 302 (*d*) shall be inflicted on any one who, in any contract not mentioned in section 302 (*a*), habitually or as a business takes advantage of the embarrassments, simplicity, or inexperience of another, to obtain the promise of or to obtain, for himself or for another, profits which under the circumstances of the case, are gravely disproportionate to the service rendered.

II. Section 360 (12) of the Penal Code (1876) shall be modified as follows :—

360 (12). Whoever, as a pawn broker (Pfandleiher) or second-hand dealer (Rückkaufshändler), acts in the exercise of his business, contrary to the regulations governing such business especially in demanding a rate of interest higher than that fixed by law or by the orders of competent authority, shall be punished with fine which may extend to £7-10-0, or with imprisonment.

Section 367 (16) shall run as follows :—

367 (16). Whoever contravenes the police regulations regarding the holding of public sales, or regarding the distribution of spirituous liquor before and during such sales, shall be punishable with fine which may extend to £7-10-0 or with imprisonment.‡

III. Contracts which contravene sections 302 (*a*), (*b*) and (*e*) are null and void.

All usurious profits paid by or for a debtor under sections 302 (*a*) and (*e*) shall be returned to him and shall bear interest from the date of the original payment. All persons who have practised or participated in usury shall be jointly responsible, save only that a person guilty of the offence contemplated in 302 (*c*) is only responsible for such amount as he or other co-contractor shall have received. The (civil) responsibility of any person (connected with the usurious bargain) who shall not be criminally liable for usury, shall be determined by the general law.

The right of demanding restitution expires at the end of five years from the date of the original payment.

The creditor in a cancelled contract has the right of demanding repayment of the principal actually lent, such repayment being secured by the guarantee (pledge, mortgage or surety) given by the debtor. Any other rights of the creditor which, according to the provisions of the Civil Code, are not cancelled by the voidance of a contract, are not affected by the present law.

IV.§ Whoever makes a regular business of trading in money or in credit must, at the close of every year, make up the account of every person who has dealt with him and has become his debtor,

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* The law of 1880 did not contain the sentence following the words 'money-loan.' It was found that the law did not cover the numerous malpractices attending rural credit and dealings, especially loans repayable in kind, or loans and contracts relating to cattle. For example, at public sales of land the auction price is usually payable by instalments ; the sale-purchaser pays so much down and the rest by bills : since the sale-vendor is, *ex hypothesi*, in urgent need of money (or he would not have allowed the sale), he endeavours to discount these small bills, and as banks do not exist for such small and local business, the money-lender is able to buy these notes at usurious discount : hence a ruinous loss to the sale-vendor, and the beginning of danger to the sale-purchaser, who now has the money-lender as creditor. Similarly, when cattle are bought on credit, any failure to pay an instalment may, by the contract, result in the instant reversion of the cattle to the vendor. Similarly, the money-lender frequently agrees to lend seed-corn, or to prolong a loan, upon the promise of usurious consideration in kind at harvest, or he debits the borrower with an excessive value for goods sold or lent and credits them with proceeds far below the market value for the produce repaid. These and other transactions are called 'Sachwucher' (usury in kind), usury in money being 'Creditwucher.'

† It will be observed that the court has to decide in each case whether, under the circumstances of that case, usury has been practised, the position of the borrower as regards the lender, *viz.*, his distress, &c., being especially considered. Usury is so protean in its forms, so elusive in its wiles, that it appears hopeless for the law to attempt to define it ; hence, since a usury law was considered necessary, the only alternative was to grant to the courts the power to determine whether, in any given case, there has been usury, a general suggestion alone being given as to the circumstances in which a contract might be usurious.

The severity of the penalties are noteworthy : imprisonment and fine are both necessary, and civil rights may also be lost.

‡ It is a common device at land auctions in Europe to provide free liquor for those attending the sale ; the consequence, of course, is reckless competition. In a report regarding the credit question in Alsace-Lorraine it is stated that the 'Jews' who have obtained the sale of an estate, split up the estate into small lots, ply the bidders with liquor; and thus obtain most absurdly high bids, so that they derive large profits not merely from the sale itself but from the unfortunate bidders who are unable to meet the subsequent calls for payment.

§ This section contains one of the most important provisions of the new law, and one which may usefully be adopted, or, rather, which should be adopted, in any usury law which may be passed for India. It has already been elsewhere advocated by the writer, and must prove of extreme value, especially if enacted in conjunction with a provision for enforcing the keeping of proper accounts in bound and duly verified books, in which the account of each individual shall be properly ledgered. This latter provision is universal in the commercial codes of the European continent.

The present section is aimed at those tricks and delays of the money lender by which a debtor is kept in ignorance of the state of his account, so that interest and compound interest accumulate to an overwhelming sum, while opportunity is, by such delays, afforded to the creditor of making omissions or false entries which, from lapse of time, the debtor is unable to prove or disprove.

The exceptions in the text are entered to prevent the provision from interfering with respectable business firms.

and, within three months from the close of the year, must send to such person an extract in writing showing not only the total due but also how such total has been arrived at.

Whoever wilfully neglects to comply with this regulation shall be punished with fine which may extend to £20, or with imprisonment, and shall lose his claim to interest for the past year on all items which ought to appear in such extract.

The above provisions are not applicable—

(1) when there has been but one single and closed transaction during the year between the creditor and debtor, and when the debtor, holds a written document reciting the amount and origin of the debt;

(2) to public banks, banks of issue, land and mortgage banks, public loan institutions, credit and savings banks belonging to public bodies and to registered co-operative societies (Genossenschaften) in so far, as regards the last class of society, as concerns transactions of the societies with their members;

(3) to business transactions between business men whose business name is registered in the trade register.

V. Clause 1 of paragraph 3 of section 35 of the commercial code is modified as follows:—

The same restriction* is applicable to those who deal habitually in the leasing out of cattle, in the buying and selling of cattle, and in buying and selling plots of land.

Russia.†

1707. A person is guilty of usury (1) when he grants a loan under such conditions as, to his knowledge, constitute an extremely unjust burden on the borrower; (2) when, being an habitual money lender, he disguises the excessive interest either by lumping it with the principal, or by entering it as expenses of maintenance, or otherwise. Such person shall be liable to imprisonment for a term of from two to six months.‡

Any person who acquires a usurious bond knowing it to be usurious, or proceeds to recover upon it, or obtains payment thereof, shall be liable to the same penalty.§

1708. Any person found guilty of making a business of the offences contemplated in the first part of the preceding section, shall be liable to be deprived of all rights and special privileges acquired either personally or by virtue of his position, and to exile to some distant province other than Siberia, or at least to a penalty of the first or second class mentioned in section 33 of this code.||

1709. Interest which does not exceed 12 per cent. per annum shall not be considered usurious. A bond impeached of usury shall be considered null and void, but the lender is entitled to the repayment of the principal which he shall have actually lent less any repayments already made.

Bulgaria.

The legislature of Bulgaria is now (1896) engaged in considering a new usury law. The bill provides that the demand of interest above 12 per cent. per annum shall be punishable with imprisonment for a period not exceeding six months, and with fine of from £4 to £20. Not only does this law forbid usury in the case of money loans, but by its provisions any one who buys standing crops at 10 per cent. below their value according to prices ruling at the time, is liable to the same punishment, as well as any person selling goods for a subsequent payment in produce, who makes an excessive profit from his customer. Further, any person carrying on such transactions under the cover of written acknowledgments of debt, bills of exchange, &c., is liable to imprisonment up to two years. (*Board of Trade Journal*, January 1896.)

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* Section 35 of the code authorizes the proper authority to forbid persons to exercise certain trades or industries when there is evidence that such persons are not of sufficiently good character: such trades are the teaching of dancing, swimming, &c. To these trades are now added those entered in the text. The new addition is aimed at those persons who exploit the rural classes in the supply of cattle, or in buying up land for the purpose of re-selling it.

† Usury in Russia is terribly prevalent, and the 'Jews' exploit the peasantry beyond measure. Hence, while Government on the one hand is endeavouring to find some mode of supplying or promoting cheap agricultural credit, on the other it is attempting to repress usury by legal enactment. The text gives the provisions of a bill translated from the French; this bill became law as an addition to the Penal Code in 1893, but the text of the law is not available: it is stated, however, that the substance of the bill is contained in the law which is somewhat lengthier, and contains provisions against habitual usurers, against those who employ (at auctions?) intoxicating liquors (*cf.* the German law, article II), &c.

‡ The law, as passed, provides that, in the case of rural usury, culpability shall depend upon the question whether the lender, by taking advantage of the embarrassment of the borrower, has obtained, whether in money, in kind, or in labour, undue advantages contrary to local custom. This latter phrase ('contrary to local custom') is not only vague but, since local custom has usually allowed usurious terms, it does not hinder usury.

§ This, whether intentionally or not, extends to mere agents such as lawyers or bankers, the penalties incurred by their employers: probably it has been altered in the law as passed.

|| This appears to be removal from his own village, but without other penalty save obligatory residence in a particular place and police surveillance.

BOOKS OF COMMERCE.*

COMMERCIAL CODE OF ITALY.

CHAPTER IV.

21. Every business person (commerciante †) must keep a day-book which shall show, day by day, all items on the credit and debit sides, all acts of trade (business transactions), the negotiation, acceptance or exchange of bills, and, generally, every receipt and payment under any head whether civil or commercial, together with, month by month, a statement of the sums laid out on the expenses of his household (casa). This day-book shall be kept, independent of any other books which may be required in the person's business.

Every business person must also keep files of all letters and telegrams received, and copy-books for all letters and telegrams despatched.

22. Every business person must make annually an inventory of his movable and immovable property and of debts owed by and to him of whatsoever nature or origin.

The inventory must be closed by a balance sheet and statement of profit and loss, and must be entered and signed, year by year, by the party in a book opened for the purpose.

23. The day-book and inventory book shall not be brought into use until each leaf thereof shall have been numbered and countersigned by a judge of the commercial court,‡ or by the prætor (petty magistrate and judge) of the place of residence of the party: on the last page of the abovementioned books and of the letter copy-book shall be entered the number of pages comprised therein, and the judge or prætor shall append to such entry his signature with the date. No charge shall be made for any of the above duties.

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* In connection with the trade of money-lending in India, it has been recommended in Vol. I, pp. 322–23 that persons dealing habitually in money and credit should be compelled to keep proper and easily verified accounts in order not merely to facilitate courts and others in ascertaining the history of a debt or bond, but to ensure that the creditor shall annually or periodically furnish the debtor, whether on demand or otherwise, with a complete statement of account, fairly free from suspicion of error or fraud. The codes of commerce of the various countries of continental Europe invariably contain provisions that *all* 'business persons' (commerçants) shall keep certain books and files which are subject to the *visé* of various authorities such as the judge of the commercial court, the mayor, &c., and it can hardly be considered objectionable to prescribe for Indian money-lenders conditions—with all necessary modifications—which are universal for all classes of trade on the European continent. Extracts are therefore given from the commercial codes of several European countries. *See* also Article IV of the German usury law in this chapter with the note thereon.

The Government of Madras has already adopted the suggestion, in their letters to the Government of India, No. 2671, Judicial, dated 6th November 1894, Judicial, and No. 2081, dated 8th October 1895.

† The 'commerciante' may be an individual or a society: section 8 defines a 'commerciante' as follows:—

"Commercianti are those who carry on trade (esercitano atti di commercio) as a regular business, and trading societies (companies, &c.)."

'Acts of commerce' are further defined in section 3 under 24 heads of which the following may be mentioned as relevant to the subject of this study:—

"(1) The purchase for resale of produce and goods, whether raw or manufactured, &c.;

"(2) The sale of such goods when they have been bought for resale;

"(11) Banking operations;

"(12) The exchange and other disposal of produce;

"(24) The deposit of goods in public (generali) warehouses and all transactions based on such deposit and on bills or warrants relating thereto."

By section 5 it is provided that the purchase of produce and goods for domestic consumption or use, or the resale of the same, is not an 'act of trade,' nor is the sale by a land-owner or cultivator of the produce of his land. Hence persons engaging in such operations do not thereby become traders, and therefore, under section 1, are not subject to commercial law, but only to the ordinary law; all 'acts of trade' are under the commercial law.

These are the provisions of the Italian code, and those of other countries, especially Latin, are similar.

‡ The commercial courts, as separate courts, have now been abolished in Italy, their work being done by the ordinary courts but under the provisions of the commercial code. It was intended to give a complete account of the commercial courts, but time and space prevent, while the matter is not absolutely relevant. Suffice it to say that, taking France as an instance, there are commercial courts in every town of importance, that the members of each Tribunal consist of a President with several Judges and Deputy Judges; these are not legally trained officers, but are business men of standing, probity, and good sense; they are elected at a meeting consisting of merchants also selected for their probity, sense of order, and capacity the number of such electors shall not exceed one-tenth of the number of licensed (patentés) traders, nor be less than fifty; the list of electors is drawn up by a commission consisting of the President and a Judge of the Tribunal, of the President and a member of the Chamber of Commerce, or of a Municipal Councillor of three members of the Council of the District, of the President of the Conciliation Council (Conseil des Prud'hommes) or of a Justice of the Peace if there is no such council in the town, and of the Mayor of the town. The following are ineligible as electors: persons convicted of crimes, such as theft, cheating, usury, indecent assault, &c., or persons who have suffered any degrading punishment; persons convicted of infringing the gambling or lottery laws, certain other criminals, dismissed public officials, bankrupts who have not been rehabilitated, and, generally, all who have not the right of public voting: various precautions are taken for the publication of this list, and for the lodging of objections.

Persons eligible for election as judges are traders of thirty years of age, domiciled within the jurisdiction of the court, persons who have been directors of a company for five years, masters of sea-going vessels under certain conditions; men cannot become judges till they have first been deputy judges, nor President till they have been judges. The election of judges and deputy judges shall be by ballot, and of the President by a special ballot, in presence of the existing commercial court presided over by the Mayor.

Judgments in the commercial court are delivered by at least three judges; advocates (avoués are not allowed to practise in these courts, but other persons may be personally instructed by a party if present. The functions of the judges are *wholly gratuitous*.

The commercial courts have jurisdiction over all disputes relating to contracts and transactions between merchants, shopkeepers, and bankers, arising in the course of their business; over disputes between partners in matters arising out of a business partnership, and over disputes relating to business (trade) transactions between all persons; trade transactions however are limited as in the second note in this article (on the word 'commerciante' in Italy). The courts have also other functions as may be read at large in the French and other codes; it is noticeable that disputes about bills of exchange are not cognizable by the commercial courts unless at least one of the parties is a commerçant.

The procedure of the commercial courts is that provided in Title XXV of Book II of Part I of the Procedure Code, and is that known as 'summary'; judgment is final when the parties both declare their desire that the judgment shall be final and without appeal, when the matter at issue does not involve any claim in which the principal exceeds

The day-book must be presented once in every year before the commercial court or prætor, and shall be viséed by him without charge immediately below the latest entry therein.

In communes where there is no prætor the *visa* may be obtained from a notary who shall enter the transaction in his register.

24. The commercial courts shall maintain a register in which shall be entered the names of the parties who have presented their books, the nature of the same, and the number of leaves countersigned; this register shall be entered up at the annual *visa* of the day-books.

Prætors who have countersigned and *viséed* the above books must send an annual memorandum of the fact to the commercial court.

The same duty is owed by notaries when they have acted as in section 23.

25. The abovementioned books must be kept in order of date and sequence, without blank spaces, interlineations, or marginal alterations. No erasures are allowable, and where any correction may be necessary, it must be made in such way that the words struck out shall be completely legible.

26. Business persons must preserve for ten years from the date of the latest entry in the (court) registers, the books obligatorily kept, and the letters and telegrams received.

27. The communication of the contents of the above books, inventories and files, shall not be claimable by parties in court except in cases of succession, formation or dissolution of partnership, and bankruptcy.

Inspection in such cases shall take place in the manner agreed upon by the parties; failing such agreement by deposit in the office of the court.*

28. During the progress of any dispute (controversia) even though not of the nature mentioned in section 27, the judge may, whether of his own motion or on the petition of one of the parties, order the production of the books, but solely for the grant of an extract of so much as shall be relevant to the matter at issue.

The production of particular letters or telegrams which may be relevant may also be ordered.†

REPORTS FROM HER MAJESTY'S MINISTER AT WASHINGTON ON THE HOMESTEAD AND EXEMPTION LAWS IN THE UNITED STATES.‡

No. 1. (Omitted.) §

Inclosure in No. 1.

Report.

Previous to the year 1862 the only means of acquiring tracts of public land was under the provisions of the Pre-emption, Timber Culture, and Desert Land Acts passed by Congress in 1841; but in 1862 the Homestead Law was passed, with the object in view of encouraging the settlement, possession, and cultivation of the land, in small quantities, by a class of industrious citizens, who, by their occupation of the soil and establishment of homes, would tend to form communities adverse to lawlessness and social or civil disorder, and to the exclusion of individual land speculators and Land Companies. It is also held that the possession of proprietary rights in the land tends to promote industry and thrift, and to foster a feeling of independence and love of country. With this view provisions were introduced into the Act protecting the settler and his family from the loss of their homestead and a certain amount of personalty by execution or sale, in the event of the settler being overtaken by debt, whether through illness, bad seasons, or other misfortunes. Unfortunately, the beneficent object held in view by this legislation has been partially defeated, the provisions of the Act having been converted

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£60; this principal does not exclude counterclaims even though these, aggregated with the original claim, do exceed £60. Appeals lie in other cases to the usual court of appeal for the district, but the appellate courts cannot stay execution of the original judgment, though they may allot a special hearing. All appeals shall be treated as appeals from 'summary' judgments.

Where there are no commercial courts, the ordinary civil judges shall exercise the functions of commercial courts, and shall decide similar matters with similar procedure.

The above is entered to show the use made of honorary (unpaid) judges chosen from experts not in the law but in trade; they must immensely relieve the ordinary courts, and would be very valuable in disputes between rural banks and their customers, if the Village Moonsiff's courts should not be equal to the task. But the Village Moonsiff's court with slight developments, appears to be admirably adapted for village business disputes.

By the Belgian law the initial or countersignature of the judge, &c., may be replaced by the official seal of the court or commune.

* Section 28 extends this section so that parties in suits for debt or for an account shall have the benefit of the production of the books in so far as the parties are concerned.

† The Belgian law is so similar to that of Italy that it needs no translation. But section 20 of that law provides that the books shall be admissible in evidence in suits between business persons as regards trade matters. So also section 20 of the French Code of Commerce is as follows, viz.: "Business books, if regularly kept, may be allowed by the judge as evidence between traders (commerçants) in matters which concern trade"; this evidently refers to the particular books, specifically ordered, as in the text *supra*, to be kept. Section 17 of the French Code is as follows: "If the party whose books are offered in proof of any fact refuse to produce them, the judge may accept the oath of the opposing party."

‡ See Vol. I, pp. 46, 323–24. The report from the Minister has been reprinted in full together with the Consular report of the (British consular) district of Mississippi, and the Homestead exemption law of Louisiana, one of the States of that district.

It should here be stated, what was unknown to the writer when volume I was written, that several countries of Europe are now studying, and some economists are urging the importance of introducing Homestead exemption laws either under that particular name or under some local name. The limitation of the power of proprietors, especially small ones, to divide or to encumber their property, and of creditors to touch it or a registered portion thereof, is beginning to receive European consideration, and the question will be hereafter dealt with separately.

§ Merely the covering letter.

by speculators into a means of acquiring possession of large tracts of land by making fraudulent entries at the various Land Offices throughout the States, and also a method of dishonest evasion of debts lawfully contracted. During the debate in the Senate last Session on the repeal of the Pre-emption, Timber Culture, and Desert Land Laws, it was stated that the Land Commissioner had made the admission that 40 per cent. of the entries under the Homestead Law were of a fraudulent nature.

A settler desirous of availing himself of the benefits of the Homestead Law is required to be the head of a family, and to be 21 years old, and under these conditions he is entitled to enter at the District Land Office a quarter section consisting of 160 acres of public land, which he is expected to occupy as a residence within six months after filing his entry. The fees of the Land Office, which are of small amount, are the only payments required of the homesteader in return for his privileges. After five years of continued residence and cultivation of the soil, the homesteader, on making application to the Land Office, is entitled to a patent for his quarter section six months after proving to the satisfaction of the Registrar that he has complied with the necessary conditions. If the settler, having filed his homestead entry, fails to occupy and cultivate the soil, his rights are forfeited to the State, as is also the case where an attempt at fraud or a want of good faith can be proven. In the event of the death of the settler before the issue of the patent, his widow succeeds to the homestead right, and in the case of the death of both father and mother, the children are entitled to the homestead right, and in no case can this right be devised away from the widow or minor children.

The homesteader is also permitted, should he wish to do so, to commute to cash his homestead entry, after six months' occupation and cultivation of the land, at 2 dol. 50 c. or 1 dol. 50 c. per acre, the price varying according to the nature and quality of the soil and the improvements made.

In almost all the States of the Union the homestead, up to a fixed limit of value, is under certain restrictions exempted by State legislation from levy by execution, but this exemption can only be claimed so long as the settler occupies the land and makes it his home. Should he cease to do so, the land could be sold to satisfy his creditors. A very liberal allowance of the personal property of the homesteader is also exempted from execution or sale, the articles exempted varying in the different States according to what is considered by the local Legislatures as necessary to enable the debtor to continue his residence on the land, to pursue his vocation, and to provide for the maintenance and welfare of his family.

The following is a summary of the legislation in the various States of the Union relating to the exemption of homesteads and of the personal property of the settler :—

Alabama.

In the country, a homestead of 160 acres not exceeding 2,000 dollars in value, and in cities, towns, and villages, a lot with dwelling, &c., value not to exceed 2,000 dollars, is exempted. Personal property consisting of necessary wearing apparel for each member of the family, portraits, books, and wages for labourers not exceeding 25 dollars per month is also exempt. Similar exemptions are provided for the widow in support of the family for the space of twelve months.

Arkansas.

A homestead of 160 acres of land, and the buildings thereon, up to the value of 2,500 dollars, are exempt; and in a city, town, or village, 1 acre with improvements up to the same value. Personal property to be selected by the debtor is exempt to the value of 200 dollars, also his or her wearing apparel. If the debtor be married, 500 dollars is similarly exempted, with the wearing apparel of the family.

California.

A homestead with buildings thereon, not exceeding 5,000 dollars in value, is exempt; and of personal property, a certain number of horses and stock, farm implements, tools, household and kitchen furniture, wearing apparel, one month's provisions, a sewing-machine, lawyers' and ministers' libraries, and in fact almost everything needed for personal comfort and safety.

Colorado.

Homestead not exceeding 2,000 dollars in value is exempted; and nearly the same generous provision for personal property as in California exists in Colorado. In the case of a single person, his tools, implements, and stock of trade to the value of 300 dollars are exempt.

Connecticut.

Homestead and buildings to the extent of 1,000 dollars in value. Personal property consisting of wearing apparel, household furniture, tools, implements of trade, library not exceeding 500 dollars in value, a certain amount of stock and poultry, provisions, and other items amounting in all to about 1,000 dollars.

Dakota.

Homestead, otherwise acquired than under Homestead Act, not to exceed 80 acres in the country or 1 acre in a town. Personal property, comprising pictures, books, instruments and tools, wearing apparel for debtor and family, furniture in use to the extent of 500 dollars, certain live stock, waggons, farming utensils, &c., valued in all at 1,000 dollars.

Delaware.

No homestead is exempt; but personal property, consisting of wearing apparel, books, pictures, and other household goods, tools, implements of trade, &c., not exceeding 200 dollars in value, is exempted.

Florida.

Homestead to the extent of 160 acres, and a residence with half an acre of land, if in a village of city with 1,000 dollars' worth of personal property.

Georgia.

Homestead not to exceed 1,600 dollars in value is exempt, together with personal property of the heads of families to the value of 600 dollars.

Idaho.

No homestead is exempt. Household and farming utensils, with food, seed, tools and instruments, tents and mining equipment, &c., are exempt, the whole not to exceed 100 or 200 dollars of each exempt class of goods.

Illinois.

Homestead not to exceed 1,000 dollars in value, except where the right of exemption has been specially waived. Personal property, consisting of wearing apparel, books, pictures of all the family, and 300 dollars' worth of other articles at option of debtor, is exempt.

Indiana.

No homestead is exempt. Personal property is exempted to the value of 600 dollars as the debtor may select. No property can be sold at less than two-thirds of its value. This can be waived in notes and contracts by the clause, "Payable without relief from Valuation or Appraisement Laws."

Iowa.

Homestead not exceeding 40 acres, and half an acre if in a town, with buildings and improvements, without limitation of value, except in cases where it is specially stipulated that exemption of the homestead is waived. Personal property, consisting of such domestic and agricultural tools and utensils as are needed for the maintenance of a family, with certain cattle, &c., are exempt.

Kansas.

Homestead consisting of 160 acres, or 1 acre in a town or city, with all improvements. Personal property, consisting of household furniture, food and clothing for a year, tools and implements and three months' wages, farmer's utensils, seed, grain, stock to a limited number, and taxation of personal property to the extent of 200 dollars, is exempt.

Kentucky.

A homestead not to exceed 1,000 dollars is exempt, together with a limited amount of live stock, and domestic implements not to exeed 100 dollars in value; and libraries, tools, instruments, &c., not to exceed in value 200 dollars, are exempt.

Louisiana.

Homesteads consisting of lands, buildings, &c., whether rural or urban, to the value of 2,000 dollars, are exempt, together with bed and bedding, arms, furniture, tools, implements for pursuit of trade, &c., to a sufficient degree to enable the debtor to support his family.

Maine.

A homestead with buildings, &c., to the value of 500 dollars is exempt; also wearing apparel and furniture up to the value of 50 dollars; bedding, family portraits, books, food, tools, cattle, grain, and implements of trade, the whole not to exceed 600 dollars in value.

Mary Land.

This State has no Homestead Law, but certain personal property designated by law is exempt, such as all wearing apparel, books and tools not kept for sale to the sum of 500 dollars. Wages or salary to the amount of 100 dollars are also exempt.

Massachusetts.

Homesteads with the improvements thereon are exempt to the value of 800 dollars. This exemption continues after the debtor's death for the benefit of the widow and children, until the youngest child becomes 21, or the widow dies. An exempt homestead cannot be sold unless more than 800 dollars is bid for it. The 800 dollars are returned to the debtor if sale be made at a higher figure for taxes or other contingencies provided by law. The following personal property is also exempted: all necessary wearing apparel, bedding, stoves, 20 dollars' worth of fuel, books to the value of 50 dollars, certain cattle, tools, implements of trade, and provisions for family use to the value of 50 dollars.

Michigan.

Homesteads not exceeding 40 acres in the country, or a house and lot in a city, town, or village, the value in either case not to exceed 1,500 dollars, are exempt. Also personalty, including furniture to the value of 250 dollars, implements and stock-in-trade to the value of 250 dollars, books not exceeding 150 dollars, pictures, provisions and fuel for subsistence for one month.

Minnesota.

Homesteads to the extent of 80 acres are exempt from seizure, together with a certain amount of cattle, 500 dollars worth of household goods, one year's provisions and fuel, also waggon and farm implements to the value of 300 dollars.

Mississippi.

Homesteads to the extent of 80 acres with improvements to the total value of 2,000 dollars, and in cities, towns, and villages, the land and buildings occupied by the debtor, with personal property to be selected by him to the value of 250 dollars, are exempt. The homestead exemption to the value of 2,000 dollars was made solely for the benefit of the family of the debtor.

Missouri.

Rural hemesteads consisting of 160 acres of land to the value of 1,500 dollars are exempt, as are also 18 square rods of ground to the value of 3,000 dollars in cities of over 50,000 inhabitants and 30 square rods of ground to the value of 1,500 dollars in towns of less than 50,000 inhabitants. Wearing apparel, tools, furniture, stock-in-trade, books, &c., are also exempt. The property of husband and wife are both exempt from liabilities incurred by the other before marriage.

Montana.

Exemption covers a homestead not exceeding 2,500 dollars in value, together with considerable personal property.

Nebraska.

The exemption extends to 40 acres of land, with necessary household goods to the value of 100 dollars to be selected by the debtor; also certain cattle and implements for farming; also tools of mechanics, books, &c. Heads of families who have no exempt real estate have 500 dollars' worth of personalty exempt.

Nevada.

Homesteads and their appurtenances to the value of 5,000 dollars are exempt. So, also, necessary household furniture, wearing apparel, firewood for one month, certain cattle, tools, &c., to the extent of about 1,500 dollars.

New Hampshire.

Homesteads not exceeding 500 dollars are exempt, together with wearing apparel, furniture, provisions, tools, books and a certain amount of live stock not exceeding a total value of 500 dollars. No homestead can be sold in execution unless 500 dollars be bid.

New Jersey.

The lot with the buildings thereon occupied as a residence to the value of 1,000 dollars, are exempt, together with 200 dollars' worth of "goods and chattels," and all wearing apparel for the debtor and his family.

New Mexico.

A homestead not exceeding 200 acres or 1,000 dollars in value, clothing, bedding, and books in use by the family, provisions to the extent of 25 dollars, other furniture to the value of 10 dollars, and tools and implements to the value of 20 dollars, are exempt.

New York.

Homesteads to the extent of 1,000 dollars in value, and various articles of domestic use, in all about 500 dollars in value, are exempt. No release of such exemption is valid unless in writing and signed by the householder. Married women are entitled to the same exemptions of homestead and personalty.

North Carolina.

A homestead not exceeding 1,500 dollars in value, to be determined for the debtor by three disinterested appraisers appointed by the Sheriff, is exempt from execution; also household goods to the value of 500 dollars.

Ohio.

A homestead not exceeding 1,000 dollars in value is exempt, together with clothing, bedding, fuel for sixty days, books, food, a certain amount of live stock, mechanical or agricultural implements not exceeding 100 dollars in value, and other necessary family articles. If the debtor is not a house-owner he may hold as exempt 500 dollars of personal property in addition to the chattels exempted above.

Oregon.

A generous allowance of personal effects, reaching possibly 1,000 dollars in value, is exempt. A debtor's family, if he die, is maintained from the estate by order of the Court, in preference to any other claim, except for funeral expenses.

Pennsylvania.

There is no Homestead Exemption Law in this State, but real or personal property to the value of 300 dollars, in addition to wearing apparel, Bibles, school-books, and a sewing-machine, are exempt. The debtor may retain such property as he pleases to the amount exempted, but he must make his claim before sale or his claim is void. He may formally waive all exemption if he please.

Rhode Island.

No homestead is exempt; but personalty consisting of the wearing apparel and tools of the debtor to the extent of 200 dollars is exempt, together with his furniture, books, stores, other household articles, and one cow, a hog, and a pig.

South Carolina.

The law of exemption of real and personal estate is the same in this State as in North Carolina.

Tennessee.

A homestead to the value of 2,200 dollars is exempt, but the exemption must be claimed in due form at the Registrar's office. In case of the death of the debtor, this exemption holds for the widow and children. Personalty to the value of 1,200 dollars is also exempted.

Texas.

Homesteads of 200 acres in extent, or lots in a town to the value of 5,000 dollars, are exempt, together with all household furniture, tools, and a liberal supply of useful articles. In case the debtor dies, the Court appropriates an equivalent in money from the estate, in lieu of exempted articles if they do not appear, or are not desired.

Utah.

A homestead valued at 1,000 dollars, 200 dollars in cash for each member of the debtor's family, and a liberal allowance of household or farming utensils, are exempt.

Vermont.

A homestead not exceeding 500 dollars in value is exempt from seizure for debt, and in the case of the debtor's death passes to the widow and children. A generous amount of personal property is also exempt, such as apparel, bedding, and furniture "necessary or upholding life," together with a certain number of cattle and provisions, fire-wood, books, &c.

Virginia.

Property to the value of 2,000 dollars is exempted in this State, which may, however, be waived in writing. Wearing apparel, bedding, furniture, household utensils not exceeding 100 dollars in value, and a certain quantity of live stock, are also exempt.

West Virginia.

Homesteads, declared in due form as such, not exceeding 1,000 dollars, are exempt, together with certain live stock, agricultural and domestic implements, furniture, provisions, books, &c. Unmarried men are entitled to exemption of tools of trade to the value of 50 dollars.

Washington Territory.

Family homestead not to exceed 1,000 dollars in value; all clothing, kitchen-ware to the extent of 150 dollars, tools, certain stock, &c., are exempt, except for the price of their purchase, taxes, or mortgage.

Wisconsin.

The Exemption Law covers a homestead not exceeding 40 acres in extent in the country, or a house and lot in town or village to the extent of 1¼ acres; also personalty consisting of a limited amount of live stock, one year's provisions, fuel, seeds, &c., also a waggon and farm implements to the value of 300 dollars.

Wyoming.

The homestead is exempted to the value of 1,500 dollars, also 500 dollars' worth of household goods, 150 dollars' worth of wearing apparel for each person, with tools and stock-in-trade to the value of 300 dollars. No property of a person about to leave the Territory is exempt.

The following restrictions prevail in the exercise of the Homestead and Exemption Laws in the various States:—

The homestead exemption does not, by the Constitutions of the States of Michigan, Virginia, Nevada, and Alabama, avail against—

(1) Any mortgage or pledge thereon lawfully obtained; or in the States of Kansas, Arkansas, and Nevada as against any lien.

(2) Nor in the States of Kansas, Virginia, West Virginia, North Carolina, Tennessee, Arkansas, Texas, Nevada, South Carolina, Georgia, Florida, and Louisiana against any obligation or debt contracted for the purchase of the premises (or property), or (except in Virginia, North Carolina, and Arkansas) for improvements thereon.

(3) Nor in the States of Kansas, West Virginia, Virginia, North Carolina, Tennessee, Arkansas, Texas, Nevada, South Carolina, Georgia, Florida, and Louisiana against a sale for taxes.

(4) Nor in Virginia, Florida, and Louisiana, against a claim for services thereon by a labouring person or mechanic. So also in North Carolina, Arkansas, Georgia, and Alabama not against labourers' or mechanics' liens.

(5) Nor in Virginia, Arkansas and Louisiana against a debt incurred by a public officer, fiduciary, or attorney-at-law, or in Arkansas, by a trustee of an express trust.

(6) Nor in Virginia against a claim for rent, nor against a claim for the legal fees of an officer.

(7) Nor in Georgia against a debt contracted for the removal of incumbrances thereon.

By the Constitutions of the States of Michigan, Kansas, North Carolina, Tennessee, Texas, Nevada, Alabama, and Florida a homestead cannot be alienated or mortgaged without the joint consent of husband and wife, and instruments of waiver of homestead rights, besides being so signed, must in Alabama be attested by one witness. By the Laws of Texas and Louisiana no mortgage, trust deed, or other lien on the homestead is ever valid, except for the purchase-money therefor or improvements thereon, whether such mortgage, trust deed, or lien is created by the husband alone, or together with his wife, and all pretended sales of the homestead, involving any condition of defeasance, are void. In Louisiana no waiver of homestead rights is valid.

In Georgia all homestead rights may be waived by the debtor in writing, except 300 dollars' worth of household furniture, provisions, and wearing apparel.

In Texas no temporary renting shall change the character of a homestead, no other homestead having been acquired.

By the Constitutions of the States of Michigan, North Carolina, Tennessee, Arkansas, West Virginia, Alabama, and Louisiana the homestead estate continues exempt from the owner's debt after his death during the minority of any of his children. So it would seem to be implied in Texas, where the Constitution provides, "that on the death of the husband, wife, or both, the homestead descends and vests like other real property of the deceased, and shall be governed by the same laws of descent and distribution, but shall not be partitioned among the heirs of the deceased during the lifetime of the husband or widow, or so long as he or she occupy or use the same as a homestead, or the guardians of minor children be permitted so to do by order of Court."

In the States of Michigan and North Carolina the homestead estate continues exempt during the life and widowhood of the widow, unless she be the owner of a homestead in her own right. So also in Tennessee, Alabama, and Louisiana it is provided, in general terms, that it shall inure to the benefit of the widow.

In Florida the homestead exemption 'accrues to the heirs' of the party enjoying it.

It is hard to state definitely to what extent the provisions of the Homestead and Exemption Laws are taken advantage of, since this varies to a great degree in the different States. In some districts they are rarely resorted to, except in cases of sickness, when the debtor secures protection from ejectment and sale of his homestead and property, while in other districts they are very generally made use of.

In the Eastern States the Homestead and Exemption Laws are still in their infancy, and so far have not attracted the attention of officials engaged in drawing up statistics, and it is impossible to procure reliable data showing to what extent the registration of homesteads is practised in these States. The existence of such beneficient Laws is very little known to the ignorant classes, and this cause, coupled with the fact of the smallness of the value of personalty exempted, affords the most plausible reason for the small number of registrations effected. The exemption of personal property is effective, since no process of law is required to render it valid, while in many cases homestead exemption is not taken advantage of, since a declaration has to be recorded, and there are many improvident people who, relying upon their possessory rights, and on having complied with the law in every respect, fail to make the necessary declaration intended to afford them lawful protection in the hour of need. Cases, however, constantly occur where the debtor avails himself of all the privileges provided by legislation against judgment made on his property for debt, and sometimes also with the intent to cheat and defraud legitimate creditors.

In the Western States these Laws are in much more general use, and the accompanying tables, compiled from the Land Commissioner's Reports for the years 1883, 1884 and 1885 show the extent to which registration is practised at the different Land Offices scattered throughout the West. In many cases, homestead entries which have been filed are never completed, the homestead being prematurely relinquished by the settler, who has grown weary of struggling to make money out of farming without capital, and has not complied with the conditions needful for final proof, or who has forfeited his rights by failing to act in good faith. In cases of distress, advantage is invariably taken of every privilege granted to the debtor by law.

Whether these laws are beneficial or otherwise to the community at large can only be answered by considering the question from different points of view, but it is to moralists that it must be left to decide whether it is beneficial to the community to protect a debtor from the payment of his lawful debts to the detriment of the creditor, and whether it is well to encourage people to live from hand to mouth in a position which they cannot improve.

There can be no doubt that to the artizan and labouring classes the benefits accruing from such legislation are very great, and the general consensus of opinion is in favour of these Laws, as is proved by the fact that the tendency shows itself to be in the direction of extending rather than curtailing the exemptions offered, and any attempt to diminish or repeal by legislation the privileges granted would be indignantly resisted on all sides. People of small means find these laws a great blessing to them, since in the case of sickness or other misfortunes they enjoy the feeling of security that their home is assured to them, and that they will not be reduced in the moment of failure to a state of abject

poverty. The weak are protected against the strong, and against unscrupulous merchants and usurers who wish to take advantage of the ignorance and poverty of the settlers to wring from them their uttermost farthing. They also afford protection to the wife and family against the folly of the husband, since a homestead cannot be sold, mortgaged, or abandoned by the husband without the consent of the wife. There are, undoubtedly, thousands of families in the States which have been saved from complete ruin by these humane provisions.

Certain drawbacks connected with the system are, however, apparent, as it is more difficult for a homesteader to raise money on credit than for one who has waived his rights to the advantages offered by these laws, and there are many who abstain from filing their entries, not wishing to impair their credit for the rainy day. Also, in leasing property in a State where the Homestead and Exemption Laws prevail, a landlord runs an extra risk, and, consequently, charges a higher rent than he otherwise would ask if the exemptions were waived.

On the other hand, these laws are considered by merchants and capitalists as an injustice to business men, and a mistaken kindness to the poor man as wrecking his credit and preventing him doing business on a cash basis.

Washington, October 28, 1886. (Signed) CHARLES HARDINGE.

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*Mississippi.**

In the country, 80 acres with improvements to the total value of 2,000 dollars.

In cities, towns, and villages, the land and buildings occupied by the debtor, and personal property to be selected by him to the value of 250 dollars.

In Alabama, Arkansas, Florida, Missouri, and Mississippi, the mere possession (no matter how acquired) of what we call the fee simple of a house and lands, by one who has a family or some one dependent upon him for support constitutes such property a homestead; and all the immunities and exemptions provided by law attach to it without any special act on his part to acquire them.

In Louisiana those who intend to claim the benefits of the Homestead Law must register their property as homestead, in the office of the Recorder of Mortgages of their parish.

In this State, therefore, it is optional with the proprietor whether his property shall or shall not be homestead; and consequently it would seem that it is in this State that an answer may be found to some of the questions bearing upon the value of Homestead Laws to the individual and to the community.

The law as above stated is embodied in the Constitution of 1882, and was probably devised out of the experience with regard to exemptions provided by an Act of the Legislature of 1874, which exempted from seizure under any legal process almost every article of furniture, useful or ornamental, likely to be found in an average household, and 600 dollars besides.

This law was passed in the (supposed) interests of poor people and small traders, but its effect was to put a stop to their credit, and paralyze their business. The wholesale houses would not provide stock except for cash in hand, and the landlords required rent to be paid in advance.

In 1876 the Modified Exemption Act now in force was passed, and I presume that the framers of the Constitution of 1882, perceiving that large exemptions did not confer unmixed benefits, made the homestead privileges optional.

As a rule, he does not register his property as a homestead. It may be that he is content with the exemptions generally enjoyed, and the widow's allowance of 1,000 dollars. It may be that, if a farmer, he does not wish to encumber his credit for the rainy day that is sure to come, sooner or later, in his precarious calling. Take this case: Farmer A has registered his property as a homestead, Farmer B has not done so. There comes a bad year, flood, drought, army worm, mildew, any one of a score of accidents, and they both have to borrow money to put next season's seed in the ground. Farmer B can raise what he wants on first mortgage at 8 per cent. Farmer A must go to the factor, and consider himself lucky if he gets what he wants at 40 per cent.

In the parish † of Orleans (in which the city of New Orleans is situated) not 3 per cent. of proprietors qualified to register homesteads actually do so. In the large and well-cultivated parish of Plaquemines the registrations are under 4 per cent., in West Feliciana 1 per cent., in Iberville 1 per cent., and so on. The highest return I have received is from St. Landry, where almost one-third register.

I have presumed that this disinclination to accept homestead exemptions is based upon the effect they might have upon credit, and this may be the reason on the prospective debtor's side; but I find, upon inquiry of large houses which do business with farmers and store-keepers in the parishes, that when a man wants goods on credit the question, "Has he registered his property as a homestead?" is not specially asked. His general character and his surroundings are taken into consideration and determine the point. Indeed, one informant (in the hardware line) told me he would rather trust one who had become a homesteader, as he had thereby shown thrift and caution. But, as a general rule, I found that in case of preference between man and man, or where the *pros* and the *cons* were balanced, the non-homesteader would have the advantage, and the homesteader would be refused.

I am indebted to Mr. Daniel Dennett, an eminent authority on farming and agriculture in the South, for the following letter on this subject:—

"*Brookhaven, Mississippi, September* 3, 1886.

"Dear Sir,

"In reply to your note of the 31st ultimo, it is difficult to say precisely to what extent the Homestead Laws benefit the people of this or any other State.

"The merchants, I believe, generally think these laws an injustice to business men, and claim that they are little or no benefit to the farmer or poor man.

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* This means the consular district of Mississippi which includes several great States, as mentioned in the text, including Louisiana of which the actual law follows.

† For Louisiana the divisions elsewhere known as 'counties' are called 'parishes.'

"I think nearly everybody avails himself of the benefits of this law when his necessities and his interests require it. I think the law is strongly approved by those for whose benefit it was made.

"The friends of the law contend that merchants and business men generally should not credit poor men with an eye to homestead exempted property, and that all credits should be based on personal integrity and ability to pay without bringing in exempted property. I think, however, that merchants often risk debts on account of property covered by Exemption Laws.

"I think the people protected by Homestead Laws, and the State also, are benefited by these laws, from facts which follow:—

"'Mississippi has a large number of business men, merchants, many of them exceedingly sharp and unscrupulous, and a certain proportion of them honest and upright in their dealings. Many of them came here strangers to make all the money that could possibly be made out of the farmers and the people.

"'The farmers of this State are most of them poor and ignorant; merchants often take great advantage of their poverty and ignorance. Cash prices for goods are usually pretty high, but credit prices are usually not less than 40 per cent. above cash prices, often 75 and 100 per cent., and even more. For instance, they often charge 10 dollars a barrel for flour sold in August and September, payable in cotton in November, which is better than cash in hand, since they make a handsome profit on the cotton. This flour could be sold at a profit, for cash, at 6 dollars a barrel—4 dollars for the use of 6 dollars three months would be 12 dollars for the use of 6 dollars one year, and the same credit prices are often charged for bacon, dry goods, &c.

"'Some well-informed statisticians in this State think that the merchants own more than half of the farms of Mississippi. I know of a Jew merchant at Summit, Mississippi, who some years ago owned about 100 farms.

"'Mississippi in the year 1860 had 42,840 farms; in 1880 the State had 101,772 farms, with areas of from 3 to over 1,000 acres each. The area of 14,356 of these farms is from 3 to 20 acres; the area of 87,416 from 20 to over 1,000 acres each.

"'The average size of farms in 1860 was 370 acres; in 1880 they averaged 156 acres.

"'Merchants have divided farms which they have absorbed since the war, and sold to negroes and poor white farmers, retaining mortgages; but few of these farms will ever be paid for—

	Number.	Per cent.
"Farms in Mississippi cultivated by owners in 1880, most of them mortgaged	..	57,214
Rented for fixed money rental	17,440	
Rented for share of products	27,118	
		44,558
	Total ..	101,772

"'As to borrowing money in Mississippi, few farmers are ever able to obtain loans of money. Those who are fortunate enough to have money to loan get from 15 to 25 per cent. per annum for it on good security.

"'The banks of New Orleans are hermetically sealed against planters and farmers. The planters usually get money on hard terms from city merchants as advances on cotton, sugar, rice, or other products, and the farmer sometimes gets a little from the country merchants as an advance on his little crop, and the country merchant ships cotton to the city merchant and obtains money from him. This is the chain that extends from the banks to the city merchant, and from him to the planter, the country merchant, and the farmer.

"'The illiteracy of Mississippians, and the advantage which sharp educated business men have over them, furnishes another excuse for Exemption Laws to protect the weak against the strong.

"'The population of Mississippi in 1880 was—

White	470,403
Coloured	652,199
	1,122,602

	Number.		Per cent.
White, 10 years old and upwards, unable to write ..	53,448	=	16·2
Coloured, 10 years old and upwards, unable to write ..	319,753	=	75·2

"'The future welfare of Mississippi and the South will rest on her small farms and mixed farming, not on plantations and great staple crops. The best protection possible should be given to small farmers by the laws against those who have the ability to swallow them, and reduce them to peonage. Great numbers of them are in reality peons now, though called free and independent men and sovereigns.'

"Pardon me for not answering your letter systematically as you put your questions. Perhaps I have said much more than you desired me to say. You of course will select the marrow if it has any and throw the rest away.

"Very, &c.,

"(Signed) Daniel Dennet.

"Hon. A. de Fonblanque."

Mr. Dennett's facts and figures may be taken as correct, but his deductions may perhaps be open to discussion. The picture he draws of farms passed into the possession of creditors, of a number of small farmers against whom the banks are "hermetically sealed," and who are subject to such hard bargains as he describes, gives the idea that capital or—what comes almost to the same thing—credit is the missing factor for obtaining prosperity, and leads one to suppose that its limitation by Homestead Law does not improve the position of the individual. Then the question, "Is it well for the State to

encourage a number of persons to live from hand to mouth in a position which they cannot improve?" arises and cannot be discussed in this country. The sentimental side is so strong for defence, and provides such potent weapons for attack, that no one who has the faintest hope of ever obtaining an office would dare to assail it openly. There would be political danger even in discussing it in the press or on a platform from the unpopular point of view. The only way, therefore, to find out what people really think and want on the question is to make it the subject of friendly conversation with individuals. Tied by my duties to the city of New Orleans, I am unable to gather information in this way respecting the other five States of this large district.

From what I can glean in the local circles from Judges, lawyers, notaries, merchants, factors, and others practically conversant with the subject, and taking into consideration the habits and generous character of the Southern people (even including the much-abused merchant), I find no reason why the ordinary laws of political economy should not prevail. Indeed, if I read the lesson taught in Louisiana aright, it has been proved better for all that it should.

With regard to general exemptions, it will be observed from the text of the Laws abstracted in the inclosure that in Alabama, Louisiana, Missouri, and Mississippi it is not for the debtor to reclaim the privileged articles, &c., from seizure, the Sheriff is forbidden to seize them.

In Arkansas and Florida the debtor may indicate property—specified in the Law of the former State, and up to the value of 1,000 dollars in the latter—which he wishes to retain. From what I am able to ascertain, these exemptions are almost invariably claimed.

It is a moot point whether the personal exemptions of Louisiana are good as against a landlord. There are decisions both ways, and no case has as yet been taken up to the Supreme Court.

I have, &c.

(Signed) A. De J. De Fonblanque.

Law of Louisiana.

Homesteads and Exemptions.—Constitution.

219. There shall be exempt from seizure and sale by any process whatever, except as herein provided, the "homesteads" *bonâ fide* owned by the debtor and occupied by him, consisting of lands, buildings, and appurtenances, whether rural or urban; of every head of a family, or person having a mother or father, a person or persons dependent on him or her for support; also one work-horse, one waggon or cart, one yoke of oxen, two cows and calves, twenty-five head of hogs, or 1,000 lbs. of bacon or its equivalent in pork, whether these exempted objects be attached to a homestead or not; and on a farm the necessary quantity of corn and fodder for the current year, and the necessary farming implements to the value of 2,000 dollars.

Provided, that in case the homestead exceeds 2,000 dollars in value, the beneficiary shall be entitled to that amount in case a sale of the homestead under any legal process realizes more than that sum.

No husband shall have the benefit of a homestead whose wife owns, and is in the actual enjoyment of property or means to the amount of 2,000 dollars.

Such exemptions, to be valid, shall be set apart and registered as shall be provided by law. The benefit of this provision may be claimed by the surviving spouse, or minor child or children, of a deceased beneficiary, if in indigent circumstances.

220. Laws shall be passed as early as practicable for the setting apart, valuation, and registration of property claimed as a homestead. Rights to homesteads, or exemptions under laws or contracts, or for debts existing at the time of the adoption of this Constitution, shall not be impaired, repealed, or affected by any provision of this Constitution, or any Laws passed in pursuance thereof. No Court or Ministerial officer of this State shall ever have jurisdiction or authority to enforce any Judgment, execution, or decree against the property set apart for a homestead, including such improvements as may be made thereon from time to time; provided the property herein declared to be exempt shall not exceed in value 2,000 dollars. This exemption shall not apply to the following cases, to wit:—

(1) For the purchase-price of said property, or any part thereof.
(2) For labour and material furnished for building, repairing, or improving homesteads.
(3) For liabilities incurred by any public officer or fiduciary, or any attorney-at-law, for money collected or received on deposit.
(4) For lawful claims for taxes or assessments.

221. The owner of a homestead shall at any time have the right to supplement his exemption by adding to an amount already set apart, which is less than the whole amount of exemption herein allowed, sufficient to make his homestead and exemption equal to the whole amount allowed by this Constitution.

222. The homestead shall not be susceptible of mortgage, except for the purchase price, labour, and material furnished for the building, repairing, or improving homestead; nor shall any renunciation or waiver of homestead rights or exemptions be valid. The right to sell any property which shall be recorded as a homestead shall be preserved, but no sale shall destroy or impair any rights of creditors therein.

223. Equitable laws shall be passed for the protection of creditors against the fraudulent claims of debtors, for the punishment of fraud, and for reaching property and funds of the debtor concealed from the creditor.

Homstead and Exemptions.—Session of 1880.

Be it enacted by the General Assembly of the State of Louisiana, the person or persons claiming the benefit of the homestead and exemptions provided by law, pursuant to Articles 219 and 220 of the Constitution of 1879, must execute a written declaration of homestead. This declaration must contain—

1. A statement of the facts that show the person claiming the homestead and exemptions is a person of the description to be entitled thereto.
2. A statement that the person claiming it is residing on the land or lot claimed as homestead, and owns it by a *bonâ fide* title, stating the nature of title.
3. A description of the lot or tract of land.
4. An enumeration of the other exemptions.
5. An estimate of the cash value of the homestead and exemptions; a statement of intention to claim such homestead and exemptions.

The declaration must be sworn to and recorded in the book of mortgages for the parish where the homestead claimed is situated.

Widows' Homesteads.—Revised Civil Code, Chapter 5.

3252. Whenever the widow or minor children of a deceased person shall be left in necessitous circumstances, and not possess in their own right property to the amount of 1,000 dollars, the widow or legal representatives of the children shall be entitled to demand and receive from the succession of the deceased husband or father a sum which, added to the amount of property owned by them, or either of them, in their own right, will make up the sum of 1,000 dollars, and which amount shall be paid in preference to all other debts, except those for the vendor's privilege and expenses incurred in selling the property. The surviving widow shall have and enjoy the usufruct of the amount so received from her deceased husband's succession, during her widowhood, which amount shall afterwards vest in and belong to the children or other descendants of the deceased husband.

Exemptions.—Act No. 79, 1876.

Section 1. The Sheriff or constable cannot seize the linen and clothes belonging to the debtor or his wife, nor his bed, bedding, or bedstead, nor those of his family, nor his arms and military accoutrements, nor the tools and instruments, and books, and sewing-machines necessary for the exercise of his or her calling, trade, or profession by which he or she makes a living, nor shall he in any case seize the rights of personal servitude, of use and habitation, of usufruct to the estate of a minor child, nor the income of dotal property, nor money due for the salary of an officer, nor labourers' wages, nor the cooking stove and utensils of the said stove, nor the plates, dishes, knives and forks, and spoons, nor the dining table and dining chairs, nor wash-tubs nor smoothing irons and ironing furnaces, nor family portraits belonging to the debtor, nor the musical instruments played on or practised on by any member of the family.

Section 2. That any person offending against the provisions of this Act, or who shall by any artifice or subterfuge induce or procure another to sign away, by contract or otherwise, any of the rights which he or she may have under this Act, shall be deemed guilty of a misdemeanour, and on conviction shall be fined in a sum not exceeding 200 dollars, or imprisonment for a term not exceeding six months, or both, at the discretion of the Court.

Section 3. That all laws and parts of laws conflicting with this Act or contrary to any of its provisions, and all laws on the same subject-matter, the amendment of Article 644 of the Code of Practise, be and are hereby repealed.

Section 4. That the repealing clause of this Act shall not be construed or interpreted so as to affect the exemption of the homestead, the widows' 1,000 dollars, nor the rural and agricultural exemptions now in force by existing Laws, it being the true meaning and intent of this Act that those exemptions should not be affected by this Act.

GREAT BRITAIN AND IRELAND.

The laws for the establishment, working, powers and supervision of special classes of Land Improvement Companies in Great Britain and Ireland are several in number, but do not seem to require insertion. The Inclosure Commissioners are the Government authorities who deal with such societies, and it is usual to give powers of distraint for arrears of annuities as though the societies were landlords while the charge for interest and the maximum period for amortization of the debt are also stated in the several laws.

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INTO THE

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